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ELEMENTS OF GOVERNMENT

Political Institutions Local and National, in the United States

BY

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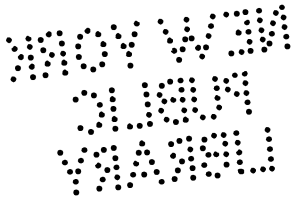

PREFACE

THE purpose of this small volume is, in brief, to set forth such guiding principles and truths of Civics as in the experience of the author seem essential for good citizenship. In it the author has endeavored to show how, out of the advancing wave of human progress, certain principles of government and political institutions spring forth which make for the highest order of citizenship; and to explain whence and how historically the government under which we live, came into existence, and how it is conducted at the present time.

In every subject discussed in so small and elementary a treatise as this, much material must necessarily be omitted. The intention is not to present a household encyclopedia of interesting facts pertaining to the science of government, but to show Civics historically developed as the subject has been worked out and used by the author in the classroom. In a word, the purpose is to make clear to the pupil how historical situations evolved problems of government and solved them; also, to arouse in him sufficient interest in present conditions so that he will see that there are new problems around him, the solution of which constantly demands his assistance.

In the preparation of this book, many more references were consulted than are given in the list suggested for the student's use. Experience has taught the author that it is not fair to assume that students in secondary schools can

master much of the source material frequently given as references on Government. The references given at the end of each chapter have been carefully selected. They are alphabetically arranged, are recent, cover the subject treated, and are such as almost any High School may reasonably be expected to have, or may get with small expense.

The experience of the author leads him to believe that with students of High Schools and Normal Schools the best results are obtained when the appropriate section and clause of the Constitution are presented for reference with the discussions in the various chapters dealing with the federal government. Endeavor has been made in all discussions to avoid technical and abstruse points upon which even constitutional lawyers may differ, but on the other hand to present such material as vitally concerns the present and future of our country. That material is everywhere about the pupil, and should be used to stimulate assertive citizenship in every community.

The author owes a great personal debt to Dr. Henry H. Cherry. The "Civic Image," a textbook on Civics written by him, embodying his own very successful experience in the teaching of government, is in a large measure the inspiration of this manual on the subject. With his consent and approval, some of his book, in a revised form, is contained in this volume. Should this brief treatise arouse as earnest a study of the underlying principles of government and good citizenship as did Dr. Cherry's book, the author shall feel part of the personal obligation and gratitude he owes him paid; falling short of that, no appreciation in a preface can even partially pay it.

The author is indebted to many teachers and former students for their invaluable suggestions and aid in the *prep*aration of this work. Among those to whom he is

especially indebted, are Professor William A. Obenchain, of Ogden College, Bowling Green, Kentucky, and Mr. J. C. Castleman, of South Division High School, Milwaukee, Wisconsin, who carefully read the manuscript, offered important corrections, and made many valuable suggestions for improvement, the outgrowth of their scholarship and wide experience as teachers.

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TO TEACHERS

GOVERNMENT may be and is taught in our secondary schools by either of two methods: as a separate course, or in connection with American History. Both systems have strong advocates, and both may be made effective. This work has been prepared with the idea of presenting the essentials of our government, ranging through the several units from the nation down to the township, in such a manner that the subject may be taught by either of the methods desired. At least one-half year should be given to its study for any results; to cover the subject satisfactorily, a year should be taken.

In high schools where only limited library facilities are to be had, and where only one-half year can be given to Civics, few of the references appended to the various chapters can be used. On the other hand, where a longer time is allotted the subject, this text may be looked upon merely as a guide, and the reference study books used more extensively. This with the living, interesting material lying everywhere about the wide-awake instructor and pupil, will furnish ample material for a full year's course.

The usual custom of giving a list of suggestive questions after each chapter has been followed although the author doubts the pedagogical value of the practice. The true teacher will, it is believed, make little use of them, but accept them rather as a guide for the student.

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ELEMENTS OF GOVERNMENT

INTRODUCTION

WHAT THE STATE MEANS

Man in Association. — There are evidences of grouping, of mutual understanding, and of primitive organization, even in the ancient myths which antedate authentic history. Whether, as is commonly believed, primitive men were warlike and selfishly looked after their own individual interests only, is not essential here; that there came a time when people trusted one another, when common interests and mutual safety brought about association and organization, is, on the other hand, of greatest importance to us.

Origin of Government. — What first led men into organized association is not altogether clear. Doubtless there was, even among the most barbaric and primitive peoples, some sort of family tie or relation. Probably it was man's helplessness in his childhood that suggested and gradually developed this idea. Whatever the cause, or reason, the family ultimately became a definite social unit. It may never have been an independent political unit in itself, but what is even more important, it became the nucleus of a larger organization, the political unit known as a horde, or clan. As soon as home life, however

crude and simple, began, organization and rules or laws naturally developed. Other institutions also started in the same elementary way. In a young savage being taught to make an arrowhead, or weave a basket, there is seen the germ of school life. Religious ideas early manifested themselves, and led to some form of common or tribal worship. The desire to gain what others possessed led, when force had proved ineffective, to the idea of barter or exchange, in which is seen the inception of our gigantic modern commercial enterprises. Thus families expanded into clans, clans into tribes, and tribes into nations. And during this time, the home, the school, the church, business relations, and social life developed, broadened, and grew ever more and more complex and interrelated.

Purpose of Government. — It is not true, as is sometimes charged, that government was organized to limit and repress man. On the contrary, government may be defined as *the obedience organized society enforces for its protection and perpetuity.* As soon as men began to live together, even in the smaller groups, they plainly began to exercise self-control in their regard for the rights of others. Government, then, it will be seen, is intended to establish and perpetuate freedom and the general welfare of the governed, and to provide protection from such evil as might befall them either from within or from without the state.

The State. — Reference has already been made to certain political units, such as the clan and tribe, out of which the idea of government grew as a natural consequence. When such a political unit becomes a clearly defined and independent group of people, permanently organized, and occupying a more or less clearly defined territory, it is called a state. In this use of the term state it has its broadest

meaning, *i.e.*, it is practically synonymous with the word nation.[1]

A state in this broad sense is rather difficult to define accurately, but may be understood through its attributes. It must have political organization, a relatively fixed territory, unity in action, common interests and laws, and a population with a predominant language. A state may then be defined as *a limited territory controlled and inhabited by people with common political ideas and institutions.* Though the state has assumed different forms in times past, the civilized world of to-day has practically only two of those forms left, the limited monarchy and the republic. Until recently Turkey and Russia were absolute monarchies, but democratic movements have resulted in limiting the ruler's authority in each.

In the limited monarchy, as in Great Britain and Germany, the ruler, generally hereditary, shares his power with an elective legislative body. In the republic, or representative democracy, the source of all political power lies in the ballot of its citizens. In the United States the republican form of government, based upon the will of the majority, is best adapted to our needs. While this form is not perfect, we are learning how to make it better as time goes on. Based as it is upon the intelligence and the patriotism of the voters of the nation, it would not do for Russia at present. Education in government is a matter of slow growth, and Russia's people have had little experience in managing the government of that state.

[1] Thus the United States, like Great Britain or Germany, is a state. The student should distinguish carefully between this use of the word and the narrower use indicating one of the forty-eight parts or commonwealths of the United States.

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SUGGESTIVE QUESTIONS

1. State two or three theories of the origin of government.
2. What is meant by institutional life? Name five or six institutions society has developed.
3. Define government. Give purposes of government.
4. Define the term state or nation.
5. Define different kinds of national governments.
6. Why must a representative democracy depend upon intelligent voters?

QUESTION FOR DEBATE

Resolved, That a limited monarchy is a better form of government than a republic.

PART I — THE NATION

CHAPTER I

AMERICAN COLONIAL GOVERNMENT

Explorations. — The fifteenth and sixteenth centuries are known in history as centuries of explorations. The reasons for this are many and various, some of which were an economic and commercial restlessness in Europe, a new and increased religious zeal, an unparalleled desire for adventure, and the new awakening to life's opportunities and possibilities brought about by the wide diffusion of learning which was made possible by the invention of the printing press. Perhaps the most important single result of this period, was the accidental discovery of the New World in 1492. Measured in terms of the effect this discovery has had upon the world's history, this was the crowning achievement of the era, if indeed not of all time. A detailed account of the discovery and explorations made within the contiguous territory now embraced in the United States will not be given here, as they may be obtained from any American history textbook. This period of exploration and settlement extended from 1492 to about 1600.

Spain's Possessions in Our Country. — As Spain was the first nation to discover the New World, she likewise was the first to plant settlements within the present confines of the United States. Claiming, as she did, the southern part of the present United States from coast to coast even

as far north as the latitude of Virginia in the east, and still farther north in the west, she made no real effort at settlement except in the extreme south and southwest. So little of importance, as far as the political life of our nation is concerned, came of these or of her subsequent attempts at exploration and settlement, that Spain may be dismissed from our consideration at once. Never has a nation had so excellent a chance to add to her greatness, and so signally failed in doing so.

France in North America. — France was a close rival of Spain in Europe and likewise in America. She explored and early attempted settlements in the southeastern part of the United States, where she clashed with and was routed by Spain. Later she established permanent settlements in Canada, and in the eighteenth century gradually took possession of the Mississippi Valley to the west of her great rival, England. In the Great Lake basin, down the Mississippi, and at last in the Ohio Valley, she planted many settlements and forts, thus becoming an important factor in determining our early history, particularly in furthering English colonial unity.

England's Colonies. — After a little over a century of discovery, exploration, and unsuccessful attempts at settlement, England, at the beginning of the seventeenth century, began settlements with more organization and in greater earnest than before. Two commercial companies were formed in 1606, to which were given extensive grants along the Atlantic Ocean. To the one, called the London Company, King James I gave the right to plant a colony somewhere between 34° and 41° north latitude; and the other, the Plymouth Company, was to establish its colony somewhere between 38° and 45°. The companies, however, were

to keep their settlements one hundred miles apart. These companies were subject to the king under a charter given by him. The London Company made its first settlement in Virginia in 1607, but its charter, after being twice changed, was finally revoked entirely in 1624. In the South, the settlement of Virginia was followed, in the order named, by the settlement of the other English colonies of Maryland, the Carolinas, and Georgia.

In 1620, the Pilgrims settled at Plymouth within the confines of the Plymouth Company's domain. This was followed by the founding of Massachusetts Bay Colony in 1628, which later (1691) absorbed Plymouth, the two being jointly known as Massachusetts. The settling of the country went steadily on. New Hampshire, Connecticut, Rhode Island, New Jersey, and Pennsylvania were settled by the English; while the Dutch settled New York, which was taken by England in 1664, and the Swedes settled Delaware, which was taken by the Dutch and afterwards by the English.

Government of the Colonies. — The forms of English colonial government in America are generally styled as charter, proprietary, and royal. There was, strictly speaking, no real charter government. A charter is merely an enumeration of definite rights that did not necessarily pertain to colony government. Hence the expression "charter government" is really a misnomer. In order to facilitate the settlement and development of the colonial territory, the crown created corporations, and vested them with the power to form settlements and colonies. Eliminating the charter idea, then, there would be only two forms of government left, viz. the *corporation* and the *provincial*. The corporation colony was one vested by the crown with

legal capacities and powers for self-government. The provincial colony was one which was directly under the crown's control, the government of which was administered by such officials as a proprietor, or a royal governor. If, then, the colonial forms of government are given as corporation and provincial, the colonies at the time of the Revolution would be divided as follows: Corporation, — Rhode Island and Connecticut; partly corporation and partly provincial since 1691, — Massachusetts; provincial, — the three original so-called proprietary colonies of Maryland, Pennsylvania, and Delaware; and those often called royal provinces, Virginia, the Carolinas, New York, New Hampshire, New Jersey, and Georgia.

Plan of Colonial Government. — The two self-governing and almost independent colonies, Connecticut and Rhode Island, are the only two of the thirteen whose government remained the same from their origin to the time of the Revolution. Indeed these two as states, Connecticut until 1818, and Rhode Island until 1842, observed the forms of their corporate charters. With these two exceptions, the general plan of organization was about the same in all the colonies. Each colony had a governor, a council, and an assembly. In Connecticut and Rhode Island governors, councils, and assemblies were elected by the people. The English Board of Trade usually selected the governors for the other eleven colonies, and the crown appointed the Board's choice. In the proprietary provincial colonies, after 1696, the crown approved the deputy-governor who represented the proprietor.

The Council. — The council in the colonies generally consisted of twelve men, but varied somewhat in number. These were men of wealth and importance in the colonies

who got their authority from the same source as the governors. In Massachusetts they were chosen by joint ballot of the general court after 1691, an exception to the general rule. The council served as an advisory board to the governor, and in all the colonies except Pennsylvania and Georgia it formed the upper house of the legislature. It is well to remember as a matter of history, that the assemblies often denied the council's legislative powers, since the latter generally sided with the governors; also that they even went so far as to compel the governors and councils to give way entirely to them at times. Frequently the council served as a supreme court in the colony.

The Assembly and the Suffrage. — Each colony had an assembly whose members were elected by the people from the towns or counties as the local political units. These local units were changed or new units were added by law as the population increased. The right of suffrage was regulated by colonial law and generally was conferred only on property holders, holders of land in the South, and holders of either real estate or personal property in the North. No colony had universal suffrage, and the power and the qualifications of voters varied in the different colonies, as did also those of their representatives.

All the colonies except Pennsylvania and Georgia had a bicameral legislature, with the two houses — council and assembly — sitting apart. The acts of the colonial legislature were subject to the veto of the governor, who might summon, prorogue, and dissolve the assembly at will, or adjourn it for as long as he chose, to meet where he saw fit. Again, the acts were subject to the approval of the king, and while it was rarely done, sometimes he set them aside. From 1688 to 1775, constitutional growth was practically the same

in all the colonies. Gradually the assembly's power grew until it put strictures on the governor and council almost everywhere. It controlled the purse, and used this control frequently as a means of threatening the regents of the crown. Sometimes the assembly meddled with matters not strictly within its jurisdiction, but it is only fair to state that this generally occurred only when governors tried to be arbitrary or themselves meddled with affairs which were not within their legal rights.

The authority of the governors, as set forth in their commissions, was almost absolute. This authority, however, was usually softened by secret instructions from the king, who insisted that local conditions in the various colonies should largely determine the governor's course of administration. The assembly power was continually strengthened and furthered at the expense of the executive owing to the kind of royal officials the colonies received. It is a notable fact that the governors sent to the colonies were, with a few well-known exceptions, of small caliber and little influence. England, it seemed, considered America merely a good recuperating place for discredited and needy politicians. The power of the royal governors was thus greatly curtailed, and their acts, while temporarily harmful, ultimately aided the assemblies in their struggles for liberal enactments.

Courts. — The lowest form of court procedure was the trial of petty cases before a justice of the peace. Above these local petty courts were the county courts which settled civil cases up to a given amount of money, and criminal cases not involving death penalties. The highest colonial courts were those composed of the governors and councils, which acted as supreme courts or as courts of appeal.

Some important cases were taken before the Privy Council in England for final adjustment.

Local Government. — Local government was less uniform in the colonies. The old English parish practically became the town, and as such, was the smallest local political district in New England. The towns governed themselves and were also represented in the colonial assembly. New England had also the county in its organization, but it was of minor importance, its business being chiefly to maintain courts and clerical records. In the South, on the other hand, with the sheriff for leading officer, as in England, the county was, almost from the first, the real local political unit. In the Middle Colonies, there was a mixed system of town and county government. Gradually, but not until after the Revolution, the mixed system of local government spread everywhere.

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SUGGESTIVE QUESTIONS

1. Why was the sixteenth century particularly a great exploring period?

2. Why was Spain so active at that time in the New World, and why did her power gradually wane?

3. Why did Spain's political ideas have no abiding effect on the future United States?

4. France was a great rival of England. Did her political ideas affect the colonies? How?

5. State England's claims in the New World.

6. Time and purpose of the organization of the London and Plymouth companies?

7. In the different charters given these companies there were a few interesting provisions relating to government. Find these provisions.

8. Note the differences in the geography of Virginia and Massachusetts; also, differences in character of settlers; and in different political notions of the early settlers of the two sections.

9. Distinguish between corporation and provincial colonies. Divide the colonies at the time of the beginning of the Revolution into these two classes.

10. Note the almost independent colonies of Connecticut and Rhode Island. How do you explain England's liberality toward them? What were some special privileges allowed them?

11. Define the powers of the colonial governors.

12. Define the general nature of the councils. How was a council chosen? State its duties.

13. The Assemblies — How chosen? Duties? Relations to the governor and councils?

14. Colonial Courts — How chosen? Duties? Appeals from?

15. Who generally could vote in the colonies? Good and evil of the system of restriction?

16. Define the township and the county as local units in colonial government.

17. Point to likenesses and differences in the general plans of government among the colonies. How do you explain the differences?

QUESTION FOR DEBATE

Resolved, That for England's own good and for the best colonial interests up to 1775, too much freedom had been granted Connecticut and Rhode Island.

CHAPTER II

THE BEGINNINGS OF COLONIAL UNION

Colonial Government a School. — Nothing else is so slowly learned by mankind as is government. The question before each generation of how to govern economically, fairly, and wisely so as to lay a foundation conducive to the welfare of the next, is probably the most difficult problem any nation has to solve. In the American colonies, naturally, there arose political questions, questions of expediency and of justice, which at first involved the interests of only one or, at most, only a few of them. Experiments in one colony, if successful, would soon be tried elsewhere. Colonial life, with its hardships and trials, proved, however, just the school the colonies needed to attend in order to fit themselves for their national future life. In the history of any nation's constitutional development, there are numerous events which have a distinct bearing on building up that nation's permanent plan of government. Those leading events and the steps which finally brought about the birth of the American Nation will now be considered.

Union of Connecticut. — The union in Connecticut is generally given as the first step toward the uniting of the colonies. In 1639 the three hitherto independent towns and communities of Windsor, Wethersfield, and Hartford drew up a written constitution called the "Fundamental Orders of Connecticut." This practically made them inde-

pendent. Bryce, the great English writer on American politics, called their constitution the first written instrument creating a government. Although Connecticut was an offspring of Massachusetts her form of government was more liberal, for in Connecticut there was no recognition of the English crown and no religious test for voting, both of which were required in the parent colony.

The League of the New England Colonies. — In 1643 another step was taken toward union. This was a league formed by Massachusetts, Plymouth, New Haven, and Connecticut. New Hampshire later became a member of this confederation, and Maine and Rhode Island attempted to become members but were rejected on religious grounds. The English government was at this time engaged in a life and death struggle with the Puritans, and hence could not supervise colonial affairs. So it was that these colonies entered into this league, as they said, " for mutual help and strength in all our future concernments." This union, known as the " League of the New England Colonies," was for the purpose of protection against the Indians, to oppose the English king, and to resist the encroachments of the Dutch and the French. Two commissioners from each colony met in one council to manage the joint affairs of the confederation, which had, undoubtedly, a greater influence in developing the idea of self-government, and in creating a sentiment for union among the colonists, than any other one thing. Contributions of men and money were based on the fighting strength of the various members of the league, Massachusetts being the largest contributor by far. This circumstance soon led to disagreement, for when, in 1653, demands for soldiers were made to carry on an Indian War, Massachusetts officials protested that they did

not see sufficient reason to accede to the demands of the league, and this is sometimes called the first nullifying ordinance in American history.

The plan of this union is most interesting and instructive in its pretensions. It held its meetings annually, when matters of war, peace, and Indian relations were discussed; provided for a court to settle intercolonial disputes; and passed such measures as a provision for the return of escaped slaves and criminals. Here, then, were found many of the fundamentals on which the larger Union was later to be founded.

Penn's Plan. — Following the dissolution of the New England League in 1684, there were no definite steps taken toward union for years to come. However, the idea was by no means lost sight of. In 1690, there was a meeting at New York of delegates from Massachusetts, Plymouth, Connecticut, and New York, to discuss methods of defense against the French and the Indians. Again, in 1696, the English Board of Trade was called upon to formulate a plan of union. Some uniform plan of handling the Indian problem was particularly desired. The following year (1697) William Penn presented his ideas of union to the Board. Under Penn's plan, each colony was to have two delegates, who should meet and form a congress which was to meet twice a year in times of war, and once in times of peace, the said congress to be presided over by a commissioner appointed by the crown. This commissioner was also to have command of the troops. This plan was the first effort to comprehend all the colonies in a union; hence was of greatest importance. It also advocated ideas on the question of taxation, similar to those contended for by our Revolutionary forefathers.

Board of Trade Plan. — In 1721, the Board of Trade evolved a plan whereby the colonial governments should be placed under the control of a lord lieutenant appointed by the king. This official was to issue orders to the governors of the various colonies, was to have the power of directing the militia, and of raising revenues. The plan, however, came to naught.

The Albany Congress. — In 1754, more than one hundred years after the formation of the New England union, the king of England advised all the colonies to unite for a common defense. This was done on account of the strained relations between the French and the English due to their overlapping claims in America. Accordingly, a congress was called at Albany by order of the Board of Trade, in 1754, at which Connecticut, Maryland, Massachusetts, New Hampshire, New York, Pennsylvania, and Rhode Island were represented. This congress agreed on a plan of union proposed by Benjamin Franklin, but its work, like that of the Board of Trade, came to nothing. The king thought the plan agreed upon gave the colonies too much power so objected to it, while the colonies opposed it on the ground that it seemed to increase the crown's power. Naturally enough, it never went into effect. The plan, in brief, was as follows: There was to be a governor-general, and a grand council, — the former to be appointed by the king and the latter by the colonial assemblies, —and the number of delegates from each colony to the grand council was to be determined by the fund the colony raised for the general treasury. It is interesting to note that the grand council was to lay and collect taxes, and have exclusive control of Indian affairs. It was to discourage luxury rather than burden industry in its tax schemes. Although

this plan was rejected, it brought many leading colonial citizens together, dispelled prejudices, and made for fraternal feeling and a keener desire for union.

The Exit of France. — At first thought it may seem strange that the exit of France as a colonizer, neighbor, and rival of the English colonies, would serve to promote their union, yet such was the case. In fact, the four intercolonial wars between England and France in America were very largely responsible for the feelings of common interest which ultimately effected the union of the English colonies. They thus banded together for mutual self-protection from their outside enemies with no thought of opposing the mother country. They had self-protection in mind, and at the same time they meant to be an aid to England. They learned something of their strength, however, in coping with France; and later, with France removed, and no foe left but Indians, against whom England never had been especially active in lending aid, they began to think of self-protection and self-preservation. The treaty of 1763, in which England chose Canada and Florida rather than the French West Indies, meant that from that time on the English possessions in America should be more exclusively British markets for British manufactures than sources of supply to them. Many English statesmen objected to the treaty of 1763, and freely predicted that if the French were driven from Canada, the American colonies, no longer having any formidable enemy to fear, would gradually draw away from England. It was at this juncture that England changed her trade laws and regulations, and out of these changes came opposition which did not obtain while the French were the rival neighbors of the English colonies.

The Stamp Act Congress. — King George III and Parliament believed in taxing the colonies, though they opposed extending representation to them. Accordingly, they paid no attention to the grievances or petitions of the colonies. Eleven years passed after the dissolution of the Albany convention before another intercolonial congress met. On March 22, 1765, the famous Stamp Act was passed by the Parliament of England without the consent of the people of the colonies. This act imposed stamp duties on all legal documents, marriage licenses, and publications of every description. The colonies justly claimed that the English government had no right to tax them without giving them representation, and stood, almost as a unit, against the conduct of England. This led to the calling of the Stamp Act Congress, which met in New York, October 7, 1765. All the colonies, except New Hampshire, Georgia, Virginia, and North Carolina, were represented. This Congress sent a communication to the king of England, petitioned Parliament, and declared in favor of the natural rights of the colonies. The colonies asserted they were not and could not be represented in the House of Commons, and made very clear that only their colonial legislatures, where they had representation, could legally levy taxes on them. After a boycott of English goods, and forcible resistance to the execution of the Stamp Act, the measure was repealed, March 18, 1766.

A General Statement of Rights. — In 1767 Parliament passed acts which seriously impaired self-government in the colonies and made the policy of England more despotic than ever. These measures were the Townshend acts, which levied taxes on certain articles imported into the colonies.

In 1768 Samuel Adams, then a member of the assembly of Massachusetts, was instructed by the legislature of his colony to write letters to all the other colonies, asking them to join Massachusetts in resisting the Townshend acts. The response was almost unanimous, all agreeing to join in such an effort. On learning this the ministry of England proclaimed the letter written by Adams "an act of rebellion," and demanded that the Massachusetts assembly rescind it. This the assembly by an overwhelming vote refused to do; whereupon the assembly was dissolved by the authority of England through the governor. The assemblies of other colonies were also dissolved by their governors on various pretexts. Naturally the colonists were angered at these measures. Town meetings were held and strong protests recorded. In Boston many of the meetings were held in Faneuil Hall, which from that day has been known as the "Cradle of Liberty." But these were not the only arbitrary acts of the British government, for others followed in rapid succession. In 1768 British troops were sent to Boston and quartered upon the people, in violation of their rights as Englishmen; citizens of Boston were impressed as British seamen; and John Hancock's sloop, *Liberty*, was seized and confiscated by British officials. General discontent prevailed throughout the country. It was at this juncture that Samuel Adams wrote a number of articles over the signature "Vindex" to show:

1. That the maintenance of a standing army by the king in times of peace and without consent of Parliament, was against the law;

2. That the existence of such a body implied the consent of Parliament, which in turn implied the consent of the people, who were always supposed to be present at Parlia-

ment, either in person or through their representatives; and

3. That the Americans, since they were not present at nor represented in Parliament, were therefore under military rule, over which they had not been allowed to exercise any manner of control.

Colonial Committees of Correspondence. — In 1773 a plan was adopted to keep the colonies in touch with one another. This was done through the appointment of committees of correspondence. Massachusetts had previously devised the plan of having various local correspondents representing her different towns and communities, whose duty was to consider the rights and grievances of citizens, and to ascertain the public opinion in regard to them and report the same to other towns in the colony. Realizing the possibilities of this plan, the Virginian assembly suggested in 1773 that it be enlarged upon and a system of colonial correspondence embracing all the colonies be provided for. In this way a closer coöperation would be secured. With the exception of Pennsylvania, all the other colonies followed Virginia's example and appointed such committees. This was another great step toward a definite and permanent union.

The First Continental Congress. — During the nine years that elapsed between the Stamp Act Congress and the First Continental Congress, many interesting and stirring events happened. Several acts passed by Parliament to the end of raising money in the colonies were met with stubborn opposition. This colonial opposition was met, in turn, by an equally stubborn resistance on the part of the mother country, and the already strained relations grew in bitterness and intensity. Finally, upon the recommendation of the

general court of Massachusetts in which body Samuel Adams played a conspicuous part, the First Continental Congress was called to meet at Philadelphia, September 5, 1774. Here strong declarations of rights were adopted; Massachusetts was upheld and support voted in her opposition to British commercial acts; an American Association for securing a general nonimportation and nonconsumption agreement was organized; and a recommendation passed calling another Congress in May of the next year. Despite the fact that England frowned upon this gathering as revolutionary, all the colonies were represented with the exception of Georgia.

Second Continental Congress. — The Second Continental Congress convened in Independence Hall, Philadelphia, May 10, 1775. This time all the thirteen colonies were represented, and many of the greatest men known in American history were among the delegates present. Possibly no other assembly of men in the history of the world has ever represented more wisdom and patriotism, or held a truer conception of right and justice than did the delegates to this Continental Congress. It was well that this was the case, for they had serious work before them: more serious than even many of them had anticipated. As it turned out, it was under their guidance that the war for colonial independence was to be fought and won.

At the time this Congress convened, however, it was still generally believed that friendly relations with the mother country would ultimately be reëstablished. Then came the battle of Lexington, and all hope of reconciliation seemed gone. If the colonists were to maintain their rights, it was apparent that they must fight for them. To that end Congress enlisted troops, raised funds, and appointed Wash-

ington as general of what was known as the " Army of the United States." In the words of Patrick Henry, " British oppression had effaced the boundaries of the several colonies," until " the distinctions between Virginians, Pennsylvanians, New Yorkers, and New Englanders were no more." With the outbreak of war, the Continental Congress became the controlling authority over the united destinies of all the colonies which were soon to become states.

The Declaration of Independence. — Though, even after the war began, the colonial leaders denied that separation from Great Britain was intended, the trend of sentiment was gradually toward independence. The innate stubbornness of the British king, and the constant attempts of his ministers to force unjust political and economic measures upon the colonies, had caused such deep resentment that separation was inevitable. Nor can it be denied that personal ambition entered into the consideration also, for then, as now, there were politicians desiring more power and recognition than the narrow colonial life afforded.

It is interesting to inquire into the status of affairs governmentally, after armed resistance began. Was there a government in existence May 10, 1775? Was the power exercised in the colonies locally, aided by the executive and legislative powers of the Continental Congress, a real government; or does the national government date from the adoption of the Declaration of Independence? Is the Union older than July 4, 1776? These are interesting questions and may be answered by the decision of the Supreme Court which later determined that the Union was established July 4, 1776.

As has been said, plans for confederation and union were *afoot* even as early as 1775. In May, 1776, the Virginia

convention instructed its delegates in Congress to vote for separation from England. On June 12, 1776, two important committees were appointed, — one to prepare a declaration of independence, and the other to draft a plan of confederation and union. The committee selected to draw up the Declaration of Independence was composed of Thomas Jefferson, Benjamin Franklin, John Adams, Roger Sherman, and Robert Livingston. It reported to Congress June 28, and Jefferson had the honor of having his draft approved with a few changes. The debate on the question of independence started on July 1. Considerable opposition was developed, since some men were not quite ready for so bold and heroic a step. John Dickinson, for example, great patriot though he was, was not in favor of independence yet. Nevertheless, after a few changes, the measure was passed July 4, and a few copies were signed by the president and the secretary of the Congress. On August 2, 1776, all other members present attached their names.

The Declaration of Independence was a somewhat radical statement of political philosophy, combining a censure of the English king and the English people, an appeal for justice, and a declaration of freedom. Its terms were, necessarily, very strongly stated in order to arouse interest and support. It was the climax of a long train of events leading to the legal formation of the American Union, and, as such, it will always merit careful respect and study. Its adoption gave the Revolution a definite and clearly defined aim. Briefly summed up, the Declaration of Independence may be said to have done the following:

It changed the colonies into American commonwealths by severing the bonds that bound them to England;

It made out of these states a Union, known as the United States of America;

It unified the desires and efforts of the colonies and brought about a concerted effort for independence;

It caused the states to reorganize their governments and adjust their laws in order to make them harmonize with the governmental authority expressed in the Declaration of Independence;

And finally it led to a complete overthrow of the rule of England and brought about the establishment of our great republic.

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SUGGESTIVE QUESTIONS

1. How could colonial government be a school?

2. What was the nature of the Fundamental Orders of Connecticut?

3. What was the purpose of the New England Union? Arrangement for carrying on the government? Powers of the league? Reasons for failure?

4. Outline Penn's plan of Union. What was his scheme of raising taxes?

5. What was the English Board of Trade? The Board of Trade distrusted the governors. Why?

6. Under the Albany plan of union how were members to be apportioned among the different colonies? What were the powers Franklin assigned the central government in this plan?

7. What was the real purpose of the Stamp Act? Why the strong protest against it from the colonists? What are the arguments for taxation by colonial assembly?

8. Origin of and work done by the Committees of Correspondence?

9. How were delegates to the first and second Continental Congresses chosen? How paid?

10. The Continental Congress was executive, legislature, and judiciary until 1781. Explain. How was diplomacy carried on by it?

11. Indicate, historically, the trend toward the Declaration of Independence. How was it framed? In studying the document itself note the parts it falls into and at whom the different charges were directed. Were all the charges literally true? How was it a step toward union?

QUESTION FOR DEBATE

Resolved, That the defeat of the French by Great Britain in 1763 was the chief cause of the American Revolution.

CHAPTER III

THE FEDERAL GOVERNMENT ORGANIZED

A New Scheme of Government Wanted. — It has been seen that America declared herself free through her Declaration of Independence. In reality, the Declaration merely expressed and asserted what already existed by war, and through the efforts of the Continental Congress. The Declaration in no way changed the status of the congress in session. It was merely an affirmation on its part of what the growing sentiment for national unity had forced upon it. It is worthy of our attention that these leaders did not provide for defeat, but at once planned for an effective scheme of government. In this plan of government the Congress would be an important factor, subject, however, to the American people's will. As previously stated, on June 12, 1776 when the committee was chosen to prepare the Declaration of Independence, there was also another committee appointed, composed of one member of Congress from each colony, to prepare a new plan of government in the nature of a confederation. Any plan would be experimental, and something constructive had to be done at once.

Colonies Now New States. — Turning from the work of the federal or national Congress, it will be noted that one of the great results of the Declaration of Independence was that a new nation was announced, and the former colonies were declared to be states. It will be necessary to see what

changes, if any, had taken place in the process of passing from a colony to a state, for the confederation which was agreed upon would depend on the state for its life and power. In 1775 Congress was called upon to advise Massachusetts and New Hampshire what to do for proper government, since their royal governors had left. The Congress then recommended a temporary arrangement. On May 15, 1776, Congress recommended to all the colonies "to adopt such government as shall in the opinion of the representatives conduce to the happiness and safety of their constituents in particular, and of America in general." New Hampshire was the first new state to form a constitution; Virginia also early framed one having a Bill of Rights, a Declaration of Independence, and a Plan of Government. By 1777 ten states had formed constitutions. It is interesting to note that, except in the case of Massachusetts in 1780, these state constitutions were not submitted to the people for ratification. Connecticut and Rhode Island continued their charters with very slight changes. These constitutions provided for a plan of government from the governor down; courts were reorganized on the old basis, and the judges were still appointive.

These state governments gradually won the confidence of the people and soon wielded more influence than Congress itself. This was due to the fact that they were more nearly under the direct control of the people. The state legislatures appointed the delegates to the Congress. What was the position of these new states relative to the Union? Were they older than the Union? Did they derive their power from it, and was it the Union that created them? These questions will be considered later. Whatever may be the answer to these questions, the newly formed Union clearly

could have amounted to nothing without the aid of state and local governments.

The Articles of Confederation. — The colonial committee on government reported, July 12, through John Dickinson its chairman. From this date until November 15, 1777, the matter was discussed by Congress at intervals. It should be said that Franklin submitted a draft that differed in some essentials from that of the rest of the committee. His plan provided for the regulation of commerce by Congress; for representation based on population, each representative to have one vote; and for a plan for making amendments through their acceptance in a majority of colonial assemblies. As will be seen, this plan is much stronger than the one adopted, and more nearly like our present constitution. Nothing came of the Franklin plan, however, and it was well that it was not adopted. Probably we should not have worked out our present constitution, had it gone through.

Difficulties to Agreement. — To get order out of all the chaos, which war and revolution had brought on, was no easy task. In the Congress itself, system had to be evolved. Since it was meant to take the place of the British crown, and since it had denounced so many things in Great Britain's manner of ruling, Congress must originate new plans. Again, since the population of the various states was not known, each state appointed as many delegates as it pleased, and paid them what it pleased. The sessions had no time limitations, and sittings were indefinite.

The delegation from each state, however, cast one vote. Many questions arose that caused long discussions and were hard to solve. Some of the most important were the following: How should revenue be raised and assessed? What about western land claims? What powers shall the

general government have, and what shall be left to the states? How shall disputes between states in the union be settled? Instead of one vote to a state, should there not be proportional representation? Should not representation be based on the amount of money raised for the maintenance of the nation?

Settlement of Disputes. — After a long debate and many compromises, the Articles of Confederation were agreed to by Congress. Franklin had worked unceasingly for proportional representation, but the Articles left Congress with one vote for each state. Each state might send to Congress a maximum of seven delegates, who must decide among themselves how to cast that one vote. Taxation was left in a form allowing Congress to make requisitions or levies on the states. These assessments were to be in proportion to the value of lands in the several commonwealths. The question of control of territory was not clearly settled, though Congress was to regulate boundaries. A kind of clumsy arbitration court was set up to settle disputes between states, but no provision was made to settle differences between states and the national government. Some of the other more important powers given the Confederation, through Congress, were the exclusive right to make war and peace; to make treaties and alliances; to appoint courts for trial of marine affairs; to fix a standard of weights and measures; to regulate trade and manage all affairs with the Indians, who were not citizens of any state; and the power to appoint all officers above regimental officers in the land forces, and all naval officers in the federal service.

Ratification. — After the Articles were agreed upon, November 15, 1777, they had to be submitted to the states

for adoption. Many saw in the flaws of the new instrument a plan to establish a strong central union. It must be remembered that the colonies were fighting a life and death struggle with a strong centralized government. The western lands question proved the real stumbling block to the adoption of the Articles. Maryland stubbornly held out against adoption until the other states agreed to cede their western land claims to the United States. This was agreed upon finally, and on March 1, 1781, Maryland, the last state, ratified the Articles, which became the accepted plan of government of the United States. It will be noted that the greater part of the Revolution was fought, not under the Articles, but under the government of the continued sessions of the Second Continental Congress. While a revolutionary body, this congress was none the less the national government, and was so recognized at home and abroad.

The Plan of Government. — According to Article II, each state was to retain "its sovereignty, freedom, and independence, and every power, jurisdiction, and right which is not by this confederation expressly delegated to the United States in Congress assembled." Sovereignty cannot be limited, and yet certain definite limitations were at once put on the states; *e.g.*, no state could hold diplomatic relations with foreign nations, or make alliances with such nations, without the consent of Congress. Many similar restrictions were put on the states subject to Congress. The union was declared to be *perpetual*. The plan was simple. A one-house legislature, called Congress, or "the United States in Congress assembled," exercised executive and judicial powers very similar to those already exercised by the Continental Congress since 1775. The

Congress provided for a president but, fearful of his power, minimized his term of office and authority greatly. Committees were appointed to do the executive work; a special committee being provided to sit during the recess of Congress. As this committee work had to be approved by the Congress as a whole, the system gradually led to the creation of executive departments which became more or less permanent, and were carried over into the new government under the Constitution as cabinet positions. In the new plan of confederation legislative functions, executive functions, and, in a limited degree, as, for instance, in Article IX, some judicial functions were provided for. In 1781, a plan was drawn up for a federal court of appeals for all sorts of cases, but it was dropped.

The Articles at Work. — At first much confidence was placed in the government, which stood as a basis of the new nationalism. Soon its weaknesses stood out boldly from the pressure and stress of war, which sorely tests any new government trying to learn its duties and functions. Particularly was this true after the surrender of Cornwallis, when the nation felt sure of ultimate victory and peace. The common enemy gone, nationalism founded upon common interest relaxed. Gradually, the community and state interests predominated, local jealousy preventing united action. Administration of finances and the regulation of commerce caused more friction than any other matters. The government needed large sums of money at home and abroad, and had to depend on the good will of the states to get it. Some of the states often neglected to obey the call for funds, and would pay nothing. Attempts to remedy these defects were made without success, as will be noted later. The states became involved

in frequent quarrels over questions of trade and similar contentions. Many difficult, vexing, and dangerous conditions threatened the liberties and rights of the whole people, due to the loose and defective government under which they operated. The Articles of Confederation, while faulty and inadequate, yet conferred a real and lasting benefit in serving as a kindergarten in federal government, from which leaders of thought gained experience and political wisdom for greater things. The leading defects may be summed up as follows:

1. The Congress consisted of but one house.

2. Congress could make certain laws, but could not enforce them.

3. It could lay taxes for the ordinary expenses of the government, but could not enforce the payment of such taxes.

4. It had no power to regulate foreign commerce, assess duties, or collect them.

5. It had no power to enforce treaties.

6. The authority of the Confederation of the thirteen colonies was subordinated to state sovereignty, hence there was no central power to settle differences between states.

7. Each state, regardless of population, had but one vote.

8. The Articles had no permanent and complete federal judiciary.

9. The Articles could not be amended except by a unanimous vote.

By 1786, it became evident to the public mind, that the Articles of Confederation would have to be amended in order to correct the defects that existed.

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SUGGESTIVE QUESTIONS

1. Show the need of some sort of union after the Revolution started.
2. Explain the process by which an English colony became an American state.
3. How were the Articles of Confederation framed? Why was so long a time taken in framing them?
4. State essentials of the better plan of union proposed by Franklin, but rejected.
5. Why were the states so long in accepting the Articles?
6. Was there a limit of sovereignty on the states when they accepted the Articles? How?
7. Outline the general plan of the government under the Articles. How could the Articles be amended?
8. Point out defects when the Articles were in force.

QUESTION FOR DEBATE

Resolved, That the Articles of Confederation furnished a better form of government from 1780–1788, than would have been possible under the Constitution at that time.

CHAPTER IV

THE NEW CONSTITUTION AND ITS RATIFICATION

Troubles among the States. — The supreme test of any government is its ability to levy and collect taxes without opposition and discontent, and to secure ready obedience to its laws. Peace had come to the new American nation, but it was not long before a disordered social condition arose. There were a good many reasons for this. England refused to yield possession of the far northern posts in our country as she had agreed, and further refused to make a commercial treaty with the young nation. Spain, who controlled the Mississippi River, openly plotted with the great West, the region between the Allegheny Mountains and the Mississippi, for secession from the United States and union with herself. There was much friction, in matters of trade, between the two states on the Chesapeake Bay and the Potomac River. New Jersey quarreled with New York about customs duties, and Connecticut and Massachusetts were unfriendly for the same reason. As early as 1783, Pelatiah Webster set forth a most interesting scheme of national government which he felt would help conditions. In his plan he placed great emphasis on the point that a government must have power enough to do what it is created for. Thoughtful men began to consider changes in the Articles of Confederation.

The Word "Convention." — The word "convention" is interesting since it has a different meaning in America from that in England. The word, it seems, was first used

in this country in New Hampshire in 1691; since then it has passed through various meanings, supplanted at times by the word "congress," until finally, by the end of the Revolution, it almost always meant an assembly of men met to frame a constitution.

The Alexandria and Annapolis Conventions. — As previously stated, the commerce of the Potomac River and Chesapeake Bay had long caused friction between Maryland and Virginia. Delegates from those two states met at Alexandria in March, 1785, to try to come to an understanding. At this meeting, uniform customs laws and currency laws were suggested, but it was seen at once that two states alone could do but little. The Virginia legislature then proposed another meeting for September, 1786, at Annapolis, and invited other states to attend. The result was disappointing, for only twelve delegates came, none from New England, and none from farther south than Virginia. Delegates from a few more states had been appointed but did not arrive in time, since those assembled waited only a few days and adjourned. The undue haste in adjourning has left a suspicion that perhaps the leaders had other plans than those this convention had been called for, viz., a uniform commercial system for the entire nation. Men like Madison and Hamilton must have seen that a complete change in government was inevitable. But even when the convention at Annapolis adjourned with a call for a new one to meet at Philadelphia, May 14, 1787, it was not deemed wise to say anything definitely about a new constitution, it being understood that the purpose was to devise such a government as would be "adequate to the exigencies of the Union." A patriotic appeal was sent with the call to all the state

legislatures and to Congress. Thus, out of dire necessity, was called the convention which finally gave us the greatest constitution ever known in history.

Internal Dissensions. — It is an interesting study to see how good may come occasionally from so lawless and dangerous a thing as a mob. Congress had been humiliated and driven from Philadelphia in 1783 by an insolent rabble. In the fall of 1786 it, or rather the government it represented, was again humiliated by a mob much more formidable. This was Shays's rebellion in Massachusetts, which in the winter of 1786–1787 upset courts and terrorized the state. The utter weakness of Congress is shown in its attempt to aid Massachusetts secretly by ordering troops thither under pretext of protection against Indians. Could troops be legally raised when Congress was not to raise troops in time of peace? Could they invade the sovereign state of Massachusetts? This is one of two great events happening between the Annapolis convention and the one called at Philadelphia which helped determine the fate of the Articles of Confederation. The other event was the New York legislature's refusal, February 15, 1787, to allow Congress to levy duties on commerce after the twelve other states had agreed. So utterly helpless was Congress to meet these emergencies now, that it could do nothing but sanction the call for the Philadelphia convention, which it did February 21, 1787. It should be noted, however, that its resolution in sanctioning the Philadelphia convention was "for the sole and express purpose of *revising* the Articles of Confederation, and reporting to Congress and the several Legislatures such alterations and provisions" as when agreed to by them, would preserve the union.

The Constitutional Convention. — All the states responded to the call for the Philadelphia Convention except Rhode Island. As before stated, the date set was May 14, 1787, but owing in the main to the difficulties of travel in those days a majority of the delegates did not arrive until the twenty-fifth of the month, those from New Hampshire not until July 23. It was indeed a notable assemblage. The members, fifty-five in all, who sat in the convention at one time or another, represented the best intelligence in America. George Washington was unanimously elected president. John Dickinson, the venerable Franklin, Hamilton, Madison, Gouverneur Morris, Edmund Randolph, and Roger Sherman, and over twoscore others, only a little less than they in foresight and prestige, were members of this convention. If these men failed in the task of forming an acceptable and permanent union among the quarreling states, it would seem to be beyond the wisdom of men to accomplish. From the secretary's (Jackson's) minutes little information is to be learned concerning the proceedings; we owe much, however, to James Madison's Notes, which were published long afterward. From them a clear and authentic account of the trend of events — the gist of the speeches, the debates, and the contentions — may be gleaned. At the outset it was voted to hold the meetings in secret, and that each state was to be allowed one vote on all measures proposed.

From the first, almost, it was plain that the sense of the convention was that the Articles of Confederation were inadequate, and that a new plan of government must be drawn up. The general trend had been constantly toward a stronger central power. Some of the leaders early submitted suggestions that showed that they had been look-

ing toward this end since the time of the convention at Annapolis. On May 29, Governor Randolph of Virginia introduced fifteen resolutions proposing a new government. The plan was really Madison's. The first resolution was as follows: "Resolved, That it is the opinion of this committee that a national government ought to be established consisting of a supreme legislature, executive, and judiciary." Thus the convention soon forgot the instructions of Congress that the Articles of Confederation should be amended, and began to consider and plan for a new government for the United States. From that hour it had no legal status, and was a revolutionary body.

Problems. — Before considering further the various plans submitted for a new national government, some of the difficulties and problems that confronted the convention should be noted. If a national government were created, how should the states stand in the matter of representation? Here at once appeared a seemingly hopeless conflict of ideas. If a national government, with general control and supervision of the states through representation, were organized, that government would derive its power and influence through the amount of representation given. If this representation be based on the amount of taxes paid into the United States Treasury, as some suggested, or on the number of people, it is obvious that the small states would have little influence in the government.

On the other hand, it was argued that, as others proposed, it would not be fair to let a small state like New Jersey count as heavily in a National Congress as Virginia, to which argument the small states replied that in a confederation the unit is the state, and since the state is sovereign all are hence equal regardless of size. Slavery, also, was

long a stumbling block. If direct taxes had to be levied, should they be on the whites only or on slaves as well? It soon developed that the Southern states wanted slaves counted as part of the total population for purposes of representation but exempted for purposes of national taxation — an obvious paradox. Again, there were almost innumerable ideas proposed as to the nature and duties of the executive, while the plans for the legislature and the courts were quite as numerous and varied. It seemed a well-nigh hopeless task to get a government with powers properly balanced between nation and state. Earnestness, perseverance, and compromise finally prevailed in spite of the fact that several delegates early became disgusted and went home.

The Virginia Plan. — The Virginia plan presented by Governor Randolph was first submitted, as were all others, to the committee of the whole. It provided for a sort of federal-national union with three coördinate branches: an executive to be chosen by the national congress; an elective congress of two houses based on representation, and a judiciary to be appointed by the congress, — all having jurisdiction over the people at large. This plan of government, which would have centered the power in more densely populated sections, was supported by the six larger states, but bitterly attacked in turn by the delegates from the other five states represented.

New Jersey Plan. — On June 15, Paterson of New Jersey introduced his plan, which would have continued the scheme of government with amendments under the Articles of Confederation. It provided for a plural executive, appointed by a congress of one house and for a judiciary appointed by the executive. It gave each state one

vote in Congress and so enlarged the powers of that body that it could raise revenue, regulate commerce, and coerce the states. For some days this plan was vigorously debated; many objections to it being raised, especially to the part relating to coercing states, it died in the end. It was rejected by the influence of the larger states. In the meantime other plans like that of Charles Pinckney of South Carolina, submitted about the same time as the Virginia plan to which it was very similar, and one by Alexander Hamilton of New York advocating extreme centralization, had all been referred to the committee of the whole.

The Compromise Plan. — After the various plans had been submitted and debated, the general outline of the Virginia scheme seemed to be most favored. But the alarm of the smaller states was such that the larger states did not dare to attempt its adoption without many changes. On June 29, some of the Connecticut delegates proposed a sort of union of the Virginia and New Jersey plans by providing that the legislature should be made bicameral, the House of Representatives to be elected on the basis of population, but each state to have equal representation in the Senate. This is sometimes called the Connecticut compromise, and was a fortunate stroke. So jealous were the smaller states of their rights, that a specific clause was inserted, forever guaranteeing equal suffrage in the upper house.

Great Compromises. — This manner, just given, of settling the representation in Senate and House, was the first great compromise, and smoothed the way for others. Connected with this was the agreement that all bills of revenue should originate in the House. The next com-

promise, which pertained to the counting of slaves for representation and the levying of direct taxes, was settled by what is known as the *federal ratio*, whereby three fifths of the slaves were reckoned in apportioning to the states direct taxation and representation in the lower house. The third compromise hinged on the power to regulate commerce and the slave trade. The general opinion had been that Congress must have complete control over commerce as the only solution to the difficulties arising therefrom. Two Southern states emphatically demanded the protection of the slave trade. Finally it was agreed to give Congress power over commerce, with the proviso that trade in slaves should not be prohibited prior to 1808. Congress was also empowered to impose a ten dollar tax on each imported slave, but it never exercised that power.

Detail. — After the great questions above mentioned were settled, the rest of the work was much easier. A Committee on Detail was elected to draft a constitution embodying the ideas agreed upon. Their report was debated upon for a few weeks, amended, and turned over to a new Committee on Style, to arrange the articles and put in definite language the ideas of the convention. To Gouverneur Morris, a member of the committee, more than to any one else belongs the credit for the clear, vigorous phraseology in which the instrument is written. In due time the Committee on Style reported the Constitution, which it sent to Congress on September 12 accompanied by a letter. Three days later it was engrossed, its final amendments added, and signed, — all states concurring by the seventeenth. Of the forty-two delegates present, but three, Gerry, Mason, and Randolph, refused to attach their signatures. The greatest written consti-

tution ever formulated was ready for adoption. It remained yet to be accepted by nine of the states before it should go into effect.

Report of the Constitutional Convention. — The following resolution, adopted by the constitutional convention, together with a copy of the proposed new constitution and a letter from General Washington, president of the convention, was sent to the Continental Congress: —

"In Convention, Monday, September 17, 1787.

"Resolved, That the preceding Constitution be laid before the United States in Congress assembled, and that it is the opinion of this convention that it should afterward be submitted to a convention of delegates, chosen in each state by the people thereof, under the recommendation of its legislature, for their assent and ratification; and that each convention assenting to and ratifying the same, should give notice thereof to the United States in Congress assembled.

"Resolved, That it is the opinion of this convention that as soon as the conventions of nine states shall have ratified this Constitution, the United States in Congress assembled should fix a day on which electors should be appointed by the states which shall have ratified the same, and a day on which the electors should assemble to vote for the President, and the time and place for commencing proceedings under this Constitution. That after such publication the electors should be appointed and the Senators and Representatives elected; that the electors should meet on the day fixed for the election of the President, and should transmit their votes, certified, signed, sealed, and directed, as the Constitution requires, to the Secretary of the United States in Congress assembled; that the Senators and Representatives should convene at the time and place assigned; that the Senators should appoint a President *of the Senate* for the sole purpose of receiving, opening, and

counting the votes for the President; and that, after he shall be chosen, the Congress, together with the President, should, without delay, proceed to execute this Constitution.

"By the unanimous order of the Convention,

"GEORGE WASHINGTON, *President.*

"WILLIAM JACKSON, *Secretary.*"

The Constitution with Congress. — The Constitution was a revolutionary document. It had violated the provision of the Articles of Confederation providing that no change in government could be made until first agreed to by Congress, the same to be confirmed by the legislature of every state. Congress was jealous of the new order of things and debated the matter for eight days. Some members even proposed amendments to the Constitution, but they were not agreed to. Finally, with none too good grace and with little enthusiasm, Congress adopted the following resolution on September 29, 1787: —

"Resolved, unanimously, That the said report, with the resolutions and letter accompanying the same, be transmitted to the several Legislatures in order to be submitted to a convention of delegates chosen in each state by the people thereof, in conformity to the resolves of the convention made and provided in that case."

Origin and Nature of the Constitution. — Professor Max Farrand of Yale holds that the provision in the Constitution regarding impeachment is about the only thing that was new, and that all else was gathered through colonial experience and from that of the states to 1787. This as a general truth is readily admitted, for, while it is doubtless true that the Constitution remedied the defects of the Articles of Confederation, it seems just as certain that it was the definite expression of an evolution and natural growth

in ideas of government. But, if the Constitution is a compilation of experiences nearly all of which had been tried out in some colony or young state, it was such experience applied to a newer and much broader field, and therefore, it was constructive and not merely remedial. It is true the Constitution was not a definitely logical document, for it was full of compromises, but, such as it was, it declared itself to be the "supreme law of the land."

Gladstone was wrong, as has been shown, when he stated that the Constitution was hastily written and was struck off hurriedly by the mind of man; so was Sir Henry Maine, when he denominated it "a modified version of the British Constitution." Some of the most essential features of the scheme of government were entirely local to America, as witness the following: —

The idea of the Supreme Court, which is recognized to-day as one of the greatest human institutions and the very keystone to the stability and working power of the whole Constitution, undoubtedly came from a council of revision in New York which possessed the power to veto the legislature's acts; from the state judiciary, and from the power of the English Privy Council to veto colonial laws, when it felt that such laws were contrary to those of England.

In Maryland, there was a small body with a long term of service called the Senate; also, an electoral college to elect the senators. From this came the idea embodied in our national Senate.

The idea of the veto given to the President was borrowed from Massachusetts, as was also the plan of impeachment.

Bicameral legislatures and a single executive existed *in nearly all of* the colonies.

Was the Union Inseparable. — Before the constitutional convention met James Madison conceived the idea that the states must not be recognized as sovereign and independent, since this idea was irreconcilable with national sovereignty. Local authority should not be subverted, however, when useful. However, once in the union, a state could not withdraw.[1] The Articles of Confederation made a *perpetual* Union. The preamble of the Constitution speaks of forming " a more perfect Union," doubtlessly meaning a stronger one than had existed under the Articles. This, taken with the idea that no government prepares for its own dissolution, would seem to lead to the conclusion that the Union was inseparable and indissoluble. The question of leaving the Union after once being admitted a member, received little attention at the time of the ratification of the Constitution by the states, and it was fortunate it did. The subject may have been purposely avoided by the framers, since it would have been dangerous. It was tacitly admitted, however, that a state convention for ratifying the Constitution could vote " no " and then reconsider its vote; but if it voted " yes," could not change. On the other hand, had it been clearly stated that once in the Union a state could not withdraw, the Constitution would almost certainly have been rejected.

Union and States Indissolubly Connected. — But the Union could not be thought of apart from the states. There never was a time when any state was free and sovereign, and yet there is no conscious idea of union older than the states. Lincoln's statement that the union was older than the states, could have been true only in a moral and sentimental sense. Sovereignty cannot be divided or

[1] Hunt: Madison, II, 336, 344, 361.

limited, and yet the states calling themselves sovereign had divided their asserted sovereignty and limited their powers under the Articles of Confederation. If, now, the state is established as a definite recognized unit, and it creates and establishes a union through ratifying a constitution with other states, at first thought it would seem that such a state might revoke that ratification. The work of the convention at Philadelphia was, from one standpoint, a revolutionary illegal proceeding, and the Constitution therefore a revolutionary document. But when the self-styled sovereign states accepted this document, they thereby again limited their sovereignty in many directions. The logical conclusion is that it does not matter whether the state called itself sovereign prior to this or not, nor does it matter whether the Union or the state is older, for under this new scheme of things, both started out together in an entirely new relation. The nature and the purpose of the Constitution were fully discussed in the ratifying conventions. In these discussions it appears clear that, while nearly everybody was ready for a change from the Articles of Confederation, the idea of many was that the new government was an experiment which, if found unsatisfactory, could be discarded. The idea of a strong central government, of a national, indivisible, and indestructible Union, was an evolution and a historical outgrowth.

The Ratification. — Article VII provided that the acceptance of nine states should make the Constitution binding, that being the number requisite for its adoption. Before its adoption, it was lifeless and helpless. In asking for its ratification by conventions in the several states, the constitutional convention asked for something *illegal* according to the Articles; but in so doing, they got the Constitu-

tion, in most cases, before a state's ablest and most progressive men.

The Supreme Court of the United States has decided that our Union really started July 4, 1776. According to that view the Union is in actual fact older than the states. This is not true historically, for the Union, as we use the term now, was not born until all the colonies, beginning with New Hampshire in 1775, had drawn up state governments and state constitutions. Moreover, it was necessary that nine of these former colonies should be changed into states and agree to the Constitution, which was not framed until 1787.

Between December, 1787, and June, 1788, ten states ratified the Constitution. New Hampshire was the ninth state, followed in a few days by Virginia. This made the Constitution binding. When the document had come before the public for ratification, there was at once an outburst of opposition. All sorts of objections were made; some sensible, others absurd. Many men who defended it, did so less from full confidence in it than they did from the belief that it was expedient to take it as the best obtainable. The ablest opponents were Patrick Henry, George Mason, George Clinton, Richard Henry Lee, and Elbridge Gerry. Defending it in able articles in "The Federalist," were Hamilton, Madison, and Jay, who were aided in its defense by the influence of Washington and John Marshall.

Principal Objections to the Constitution. — Chief among the objections urged against the Constitution were the following: —

1. It formed too centralized a national government.

2. It gave too little democracy to the states, especially in forbidding the issue of paper money as legal tender.

3. It had no bill of rights.

4. It had no plan for acquiring new lands.
5. No religious test was required for office holding.

The friends of the Constitution were called Federalists, and the opponents Anti-Federalists, thus giving rise to our first two political parties. The friends of the Constitution won, though only after a bitter fight in several states like New York; Massachusetts, where Samuel Adams and John Hancock had to be converted to the Constitution; and Virginia, where Lee and Henry vigorously opposed its adoption. North Carolina remained out of the Union until November, 1789, and Rhode Island until May, 1790. The Constitution as adopted was scarcely in operation when the first ten amendments were attached. These silenced most of the criticism against it.

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SUGGESTIVE QUESTIONS

1. State internal and foreign troubles the government had from 1783–1787.

2. Attempts to amend the Articles of Confederation. Why did these attempts fail?

3. How were delegates chosen to the constitutional convention at Philadelphia? What were their specific instructions?

4. What was the attitude of Congress toward the convention?

5. Does it seem that plans were laid to overthrow the Articles before the convention convened at Philadelphia? Why?

6. Hard problems of the convention?

7. What in brief was the Virginia plan? The New Jersey plan? The Compromise plan?

8. Why was there such jealousy between the large and the small states?

9. What were the great compromises of the Constitution?

10. Why was there feeling between the North and the South in the convention?

11. What were the sources of the Constitution?

12. Was the question of a state's sovereignty raised when it ratified the Constitution? Did a state surrender more or less sovereign power under the Constitution than when it accepted the Articles?

13. In what sense was the constitutional convention at Philadelphia a revolutionary, illegal body?

14. Does it matter whether the Union or the state is the older? Why?

15. How was the Constitution ratified? By whom opposed? How could it be amended?

16. What were the leading objections to it?

17. Is it well to have made it so hard to amend the Constitution? Why?

QUESTION FOR DEBATE

Resolved, That the Constitution should have specifically stated the Union to be indissoluble and supreme.

CHAPTER V

PUTTING THE NEW GOVERNMENT INTO OPERATION

The Enacting Resolution

Proceedings of Congress. — When Congress learned that New Hampshire had ratified the Constitution, making the nine states necessary for its adoption, it was resolved by that body that a committee should examine into the various ratifications and "report an act for putting the said Constitution into operation."

This committee having duly reported, Congress adopted the following resolution on September 13, 1788: —

"That the first Wednesday in January next be the day for appointing Electors in the several states, which, before the said day, shall have ratified the said Constitution; that the first Wednesday in February next be the day for the Electors to assemble in their respective states and vote for a President; and that the first Wednesday in March next be the time, and the present seat of Congress the place, for commencing the proceedings under the said Constitution."

The first Wednesday fell upon March 4, and the presidential and congressional terms have ever since begun on that date. The date was confirmed by the Twelfth Amendment, which was adopted in 1804.

Presidential Electors. — Eleven states were entitled to choose electors to vote for President, but the legislature of

New York was unable to agree upon a plan for choosing them and thus lost its vote. The other ten states selected electors, and these, sixty-nine in all, voted unanimously for Washington. Fearing Washington might fail of election, many electors scattered their second ballots so that John Adams, who ran second for the office, and hence under the original provision was declared Vice President, received only thirty-four votes. The electoral college scheme worked awkwardly and became a machine for party bosses in the very first election.

The New Congress. — Congress under the Articles died slowly. It had had but little vitality for some years preceding the change in government, and often had found it difficult to get or keep a quorum. On foreign affairs it could do little, and after it saw the change coming it shifted responsibility over to its successor. State legislatures chose the senators as provided in the Constitution. The time and the manner of electing members to the new House of Representatives was in the hands of the states. Some put the congressmen on a general ticket; others used the district method from the start. Only four states got their representatives to New York by March 4, and there was no quorum until April 1, when the House was duly organized. The Senate did not organize until April 6. On that day, the two houses met and counted the electoral votes for President. The first act on the statute book, prescribing a form of oath, was passed on June 1, 1789.

The Federal Courts. — The courts could not organize until a statute was passed authorizing their doing so. This was done September 24, 1789. Two grades of inferior courts were created: the district court and the circuit

court. United States attorneys and marshals were appointed in the different states, and the manner of appealing from the state to the federal courts was defined. A chief justice and five associate justices comprised the Supreme Court; thirteen district and three circuit courts were provided for, and the judicial machinery of the new Constitution was then in motion.

Organization Completed. — With the election and the inauguration of the executive, the Congress elected and in session, and the court machinery spread out over the nation and at work, the first great strides toward getting the governmental machinery in motion had been taken. The task was naturally a great one and required skill and patience, for there were few precedents to follow. Soon cabinet departments were created, collectors of the customs appointed, foreign ambassadors and consuls named, and steps were taken at once to raise revenue by a tariff, and by tonnage and excise duties. Arrangements were made also for the payment of debts and to provide for the running expenses of the government. The states quickly adjusted their constitutions and governments to harmonize with the national government, and the country grew peaceful and prosperous. By the end of Washington's first term of office the people were accustomed to the new government, which bore on them lightly and with little friction, and the Constitution and the republic were safe.

It will now be our duty to examine the Constitution more carefully and see what it meant and how it has been interpreted in the light of experience. Its success or failure naturally depended on results obtained as time and the nation moved forward.

The Enacting Clause

THE NATIONAL GOVERNMENT

"We, the people of the United States, in order to form a more perfect union, establish justice, insure domestic tranquility, provide for the common defense, promote the general welfare, and secure the blessings of liberty to ourselves and our posterity, do ordain and establish this Constitution of the United States of America."

The Opening Statement of the Constitution. — The introductory paragraph, which is usually called the " preamble," is a vital part of the Constitution. It is more than a preamble, it is also an enacting clause which ordains the Constitution in the name of the people, and gives a recognized name to the government which the Constitution forms. A preamble only sets forth reasons for the establishment of a statute, and is not a vital part of the statute itself, but the first sentence of the Constitution is an organic and necessary part of the Constitution of the United States. " We, the people," raised the question, " who are the people? " Patrick Henry wanted the Constitution to start with " We, the states," but it was probably intended to mean the citizens of the United States who got a chance to exercise a vote in ratifying the Constitution in the several state-ratifying conventions.

The enacting clause in an interesting and concise way gave six reasons for establishing our government: —

1. *To form a more perfect union.* — The government under the Articles of Confederation was unsatisfactory and had failed to secure the confidence, coöperation, and union of all the people. The constitutional convention desired to bring the people together in a stronger union. Well they knew that this could be done only by recognizing

the natural rights that belonged to the nation, to the state, and to the citizen, and by making each citizen in each state of this Union a sovereign with the power of exercising his divine rights and privileges.

2. *To establish justice.* — The government failed to establish justice under the Articles of Confederation. A national judiciary was needed to interpret the laws and to restrain selfish legislation. Without national authority to pass upon the constitutionality of statutes and enactments, and to interpret the laws, injustice would often be done. There can be no justice in a free government without a judiciary, for without it each individual would be a judge unto himself, and his interpretation of the law would be biased by his desire to obey or to ignore it.

3. *To insure domestic tranquility.* — Domestic contentions in various forms had existed among the different states and various interests in the same state. The great men who framed the Constitution realized the danger of dissensions; hence they were desirous of securing peace and concord among the warring elements throughout the country.

4. *To provide for the common defense.* — Under the Articles of Confederation, the federal government had no power to collect taxes, to raise armies, or provide for navies. The framers of the Constitution knew that one of the most important questions to be considered was the one relating to the "common defense." They knew also that a nation could not secure proper respect and command an important position in international questions and disputes, unless it built about itself not only a noteworthy national character, but had power to provide for a strong and well-disciplined army and navy.

5. *To promote the general welfare.* — It is the theory of government that it is a nation's duty, not only to protect the people in their civil rights, but to offer every citizen an opportunity to develop the highest mental, spiritual, and physical culture possible, and the chance to gain wealth. In short, the perpetuity of any government depends very largely upon how well it looks after the "general welfare" of all the people composing the nation.

6. *To secure the blessings of liberty to ourselves and our posterity.* — Liberty emanates from the self-reliance of sovereign man, implanted in him by his Creator. This knowledge of power and natural rights is the greatest safeguard that was ever thrown around a free institution.

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SUGGESTIVE QUESTIONS

1. State the attitude of the old Congress towards the organization of the new government.
2. How was the Président chosen? Did the electoral college work as expected? Why?
3. The organization of the new Congress. How done, and why so slow?

4. How was the federal judiciary organized? Why did it take a congressional statute to organize it?

5. What principal things were necessary before the whole federal machinery was in action?

6. Note the provisions of the enacting clause and state what each means.

QUESTION FOR DEBATE

Resolved, That in the enacting clause of the Constitution it would have been better to have the words " we, the states," instead of " we, the people."

CHAPTER VI

THE LAW-MAKING DEPARTMENT. THE COMPOSITION, WORK, AND ORGANIZATION OF THE TWO HOUSES OF CONGRESS

Article I, Sec. 1. — *All legislative powers herein granted shall be vested in a Congress of the United States, which shall consist of a Senate and a House of Representatives.*

The Three Departments of National Government. — The work of the government is accomplished through three departments: —

1. Congress — the Law-making.
2. The President — the Law-enforcing.
3. The Federal Courts — the Law-interpreting.

The greatest constitutional statesmen have never been able to make a complete and absolute separation in the exercise of these three powers. Each department serves as a check on the others, and, like each division of the human mind, is an inseparable, organic part of the whole. The success of our fathers in creating three departments with certain independent and natural functions to perform, and, at the same time, in making each one an important and intermingled part of the organic whole, is regarded by the best thinkers and writers as a long step toward the highest possible political achievement.

We quote the constitutional authority for the three divisions of our government: —

Article 1. All Legislative powers herein granted shall be vested in a Congress of the United States, which shall consist of a Senate and House of Representatives.

Article 2. The Executive power shall be vested in a President of the United States of America who shall hold his office for a term of four years.

Article 3. The Judicial power of the United States shall be vested in one Supreme Court, and in such inferior courts as the Congress may from time to time ordain and establish.

A Congress of Two Houses. — The members of the constitutional convention had learned by experience the advantage of a bicameral law-making body, differently composed and selected. At that time, most of the states had legislatures consisting of two houses, which plan had proved on the whole satisfactory. Such is the system in the United States law-making department to-day. Under this arrangement there is more deliberation in the making of laws: one house serves as a check on the other in preventing hasty legislation in times of great political excitement.

Congress consists of the House of Representatives and the Senate. Each Congress lasts two years. The first Congress continued from Wednesday, March 4, 1789, to March 4, 1791. The fifty-first Congress held office from 1889–1891; the sixty-third from 1913 to 1915. The Constitution requires that a Congress shall meet in no less than two sessions. When, in the opinion of the President, there is national business of sufficient importance to require immediate attention, he may call one or more special sessions of Congress. During the fortieth Congress there were three special and two regular sessions, making five sessions

during the two years. Congress has fixed the first Monday in December as the time of meeting, but the time may be changed by law. The regular order is a long and a short session of each Congress. The long session convenes on the first Monday in the second December following the election of national representatives; and the short session lasts from the time Congress meets again, in the following December, until the next fourth of March at noon. The long session ends in even and the short session in odd years. The place of meeting of Congress is not fixed by the Constitution. This is done by a federal law.

Sec. 2, Clause 1. — *The House of Representatives shall be composed of members chosen every second year by the people of the several States; and the electors in each State shall have the qualifications requisite for electors of the most numerous branch of the State Legislature.*

Election of National Representatives. — Representatives are elected every two years by the people on the first Tuesday after the first Monday in November. The Constitution of the United States authorizes citizens in each state, who vote for state representatives to vote also for national representatives. Each state has the privilege of determining who shall vote for national representatives, but, at the same time, a limitation is placed upon the power of the state by declaring " The electors in each state shall have the qualifications requisite for electors of the most numerous branch of the state legislature." Under this restriction, if the state should attempt to change and modify the qualifications of the voters for the most numerous branch of its own general assembly, it would in the same manner impose similar conditions upon its voters

for congressmen. The qualifications of the voters in the different states is not uniform, and the only limitation to a state's determining a voter's qualifications is the Fifteenth Amendment.

Sec. 2, Clause 2. — *No person shall be a Representative who shall not have attained to the age of twenty-five years, and been seven years a citizen of the United States, and who shall not, when elected, be an inhabitant of that State in which he shall be chosen.*

Qualification of Representatives. — The constitutional convention used great care in defining the qualifications of persons who hold office in the various departments of government. In naming the qualifications of the national representatives, great emphasis was placed upon experience, citizenship, patriotism, and residence. An age limit was imposed in order to insure experience and give the candidate for the high office time to build his character, make preparation, define his views on public questions, impress his life upon the community, and gain the love, esteem, and confidence of the public. Under this qualification, an alien could not become a representative in less than twelve years' residence in the United States, as it requires five years for him to become a naturalized citizen, after which he would have to be a citizen of the United States for seven years. The candidate to be eligible to this office must also be an inhabitant of the state from which he is elected, though he may live in a different congressional district from the one from which he is elected. In cases of dispute the House decides whether any one claiming to be a member is regularly elected and legally qualified. In the fifty-sixth Congress, a member from Utah was excluded for polygamy.

Sec. 2, Clause 3. — *Representatives and direct taxes*[1] *shall be apportioned among the several States which may be included within this Union, according to their respective numbers, which shall be determined by adding to the whole number of free persons, including those bound to service for a term of years, and excluding Indians not taxed, three-fifths of all other persons. The actual enumeration shall be made within three years after the first meeting of the Congress of the United States, and within every subsequent term of ten years, in such manner as they shall by law direct. The number of Representatives shall not exceed one for every thirty thousand, but each State shall have at least one Representative; and until such enumeration shall be made, the State of New Hampshire shall be entitled to choose three; Massachusetts, eight; Rhode Island and Providence Plantations, one; Connecticut, five; New York, six; New Jersey, four; Pennsylvania, eight; Delaware, one; Maryland, six; Virginia, ten; North Carolina, five; South Carolina, five; and Georgia, three.*

Apportionment of Representatives. — Under the Articles of Confederation each state had one vote. As has been noted, the constitutional convention had great difficulty in inducing the smaller states to relinquish their equality in the House of Representatives. After deciding to base representation in the House on population, further difficulty arose in determining whether or not the slaves should be counted as a part of the population in making the apportionment. The Northern states insisted that the apportionment should be made according to the number of free persons; the slave states thought the slaves should be counted in the enumeration. A compromise was finally made by which three fifths of the slaves were counted.

[1] The Supreme Court in 1895 declared an income tax to be a direct tax; but the Sixteenth Amendment in 1913 superseded this clause so far as income taxes are concerned.

This of course was changed by the Civil War and the subsequent constitutional amendments. The acceptance of this rule was naturally favorable to the slave states inasmuch as it greatly increased the number of the representatives. From another point of view, however, it was unfavorable to them, for it increased their proportion of direct taxes. None the less the slave states felt that the advantages were greater than the disadvantages.

The above provision, regulating the apportionment of representatives, has been changed by Section 2 of the Fourteenth Amendment, which reads as follows: —

"*Representatives shall be apportioned among the several States according to their respective numbers, counting the whole number of persons in each State, excluding Indians not taxed.*"

Ratio of Representation. — The Constitution declared that representation should not exceed one representative for every 30,000 inhabitants. This was the only limitation placed on the number of members of the House. Under the first census taken, the ratio of representation was placed at 33,000 inhabitants for each member. There were sixty-five representatives in the first House. The United States takes a new census, and Congress makes a new apportionment for representatives every ten years. Under the last census, taken in 1910, there have been since 1913, 435 members of the House, and the ratio of representation was 211,877 inhabitants. The number of representatives will be 435 until the next apportionment goes into effect in 1923, unless new states are admitted into the Union before that time. If a new state is admitted after an apportionment act is passed, the new members are additional *to those provided* for by the act.

The ratio of representation is found by dividing the total population of all the states by the number of representatives. The population of each state divided by the number thus obtained will give the number of representatives to which a state is entitled. Remainders must necessarily result from making these divisions, and this will prevent the total number of representatives allowed each state from equaling the total apportionment made by Congress. In order to make up the deficiency, Congress assigns to each state having a remainder of more than half of 211,877 one additional member, thus making up the apportioned number.

Each State Represented. — It is possible for a state not to have a population as large as the number required for a representative. Foreseeing this, it was provided that "Each state shall have at least one representative."

Territorial Delegates. — Each organized territory sends one delegate to Congress. This delegate is elected by the popular vote of the territory and his duty is to look after the general welfare of the territory he represents. He has a right to a seat in the House of Representatives and may participate in debates, but does not have the right to vote. From some of the insular possessions, which are only partly organized territories, a delegate or commissioner has only such rights as the House extends to him.

The Congressional District. — The states entitled to more than one representative are divided into congressional districts by their state legislatures. Representatives are elected by the popular vote of these districts. When a state is entitled to increased representation under the new census, the additional congressional member or members

are elected by the popular vote of the state at large until the state is redistricted. A member elected in this way is known as congressman at large.

The Gerrymander. — Gerrymandering is a political term meaning the changing of the boundaries of congressional districts, by the political party in power, in such a way as to give the greatest political advantage to that party. Two congressional districts, side by side, differing in politics, are frequently brought to the same political status by the skillful use of this political juggling.

Sec. 2, Clause 4. — *When vacancies happen in the representation from any State, the executive authority thereof shall issue writs of election to fill such vacancies.*

Vacancy in the House. — A vacancy in the national representation of a state is filled by the voters of the congressional district in which the vacancy occurs. A writ of election is issued by the governor of the state when the vacancy occurs, and the people at the special election choose a representative for the unexpired time. Vacancies may happen as a result of death, resignation, or removal. If a representative wishes to resign, he does so by informing the governor of his state to that effect.

Sec. 2, Clause 5. — *The House of Representatives shall choose their Speaker and other officers, and shall have the sole power of impeachment.*

Officers of the House. — The officers of the House of Representatives are: a speaker, a clerk, a sergeant-at-arms, a doorkeeper, a postmaster, and a chaplain. None of these officers is a regular member of the House except the speaker, who must be himself a representative. These officers are chosen by the House.

The Speaker. — The presiding officer of the House of Representatives is known as the speaker. He is elected by the members of the House from their own number and holds his office for a term of two years. As the representative of the people of his district, he has the right to take an active part in all discussions and to vote on all questions. Usually, however, he does not vote except upon measures of great importance, when the vote is taken by ballot, or when there is a tie. It is his duty to preside over all the deliberations of the House, receive and put motions, decide points of order, grant or withhold recognition, give parliamentary information when desired, and preserve order in the House. The speaker should be a man of sterling character and great executive ability, as well as a good parliamentarian. Until recently his greatest source of power lay in his right to appoint the Committee on Rules, composed of himself and two other majority members. This committee kept the register of bills, and owing to its arbitrary handling of the measures falling within its jurisdiction, has sometimes been called "The cemetery of legislative hopes." The speaker gradually grew into an autocrat more powerful in legislation than even the House itself until during the sixty-first Congress (1910), when an uprising in that body took the power of appointing the Committee on Rules from him and lodged it in a committee elected by the House itself. This seems to be a new step toward democracy as it makes the speaker more nearly an impartial moderator like the Speaker of the House of Commons in England. Furthermore, during the special session of the sixty-second Congress a rule was adopted providing for the election of all standing committees by the House. The speaker's salary is $12,000 a year.

The Clerk. — The clerk is the recording officer of the House. It is his duty to read all papers when so ordered by the speaker, make an accurate list of the members, call the roll, and register the result of a vote. It is his duty also to record motions, and take charge of and preserve the documents and papers belonging to the House. The journal, when properly kept, is an accurate record of the daily work of the House. As a rule, it should not contain any record of anything that was not regularly acted and passed upon by the House, and great care is exercised to that end.

The Doorkeeper. — The doorkeeper is the custodian of the House, and has charge of the Hall of Representatives, including furniture, books, and other property of the government. It is also his duty to guard the doors of the House and to allow only such persons to enter as are permitted to do so under the rules and regulations of the House.

The Postmaster. — The postmaster has charge of the special postoffice established in the Capitol for the accommodation of the members of the House. He looks after all mail, and performs the duties connected with such a position.

The Chaplain. — The daily session of the House of Representatives is opened with prayer by the chaplain chosen for that purpose.

The Sergeant-at-Arms. — The sergeant-at-arms is the sheriff of the House. He has charge of that symbol of authority, the mace. He, at the request of the House or the speaker, arrests members and maintains good order in the House. He also summons absent members when needed in order to make a quorum, and acts as paymaster of the

House. The sergeant-at-arms is under the direction of the House of Representatives and the speaker.

The Mace. — The House, at its first session (1789), authorized the Speaker to procure a suitable symbol of authority for the sergeant-at-arms. A mace of special design was selected. Mr. George Hazelton, in his book, "The National Capitol," says: —

"This time-honored emblem of authority is composed of thirteen ebony sticks, silver-bound and surmounted by a silver globe, delicately engraved with the map of the world, upon the top of which rests a silver eagle with wings outstretched. A few minutes before the assembling of the House it is the duty of an assistant sergeant-at-arms to carry the mace to the floor and rest it on the platform, prepared for that purpose, against the wall beside the speaker. When the chaplain finishes the benediction, the speaker declares the House in session, and the mace is raised and placed upon its immovable pedestal of malachite, where it remains until the House adjourns. The assistant sergeant-at-arms then formally bears it back and replaces it in the custody of his superior.

"Whenever, during sessions, the House becomes too turbulent for the speaker to control, he directs the sergeant-at-arms to take the mace from its pedestal and carry it among the members. Only upon the rarest occasions has this authority not been immediately respected."

Impeachment. — The Constitution declares that the House of Representatives shall have the sole power of impeachment, and the Senate the sole power to try such cases. An article of impeachment is a written accusation preferred against some federal officer by the House of Representatives. The President and Vice President and all civil officers of the United States are subject to this law.

The Organization and Practical Working of the National House of Representatives. — The clerk of the previous House calls the House of Representatives to order at the beginning of each Congress. This done, he calls the roll, which he makes up from the certified returns of the states, ascertains whether a quorum is present, and presides until a speaker is elected.

The oath of office is usually administered to the speaker by the member of the House who has been longest in continuous service. This member is known as the "father of the House." After the speaker takes the oath, he administers it in turn to the members of the House. The oath administered to senators and representatives is here given:—

"I (name) do solemnly swear (or affirm) that I will support and defend the Constitution of the United States against all enemies foreign and domestic; that I will bear true faith and allegiance to the same; that I take this obligation freely, without any mental reservation or purpose of evasion, and that I will well and faithfully discharge the duties of the office on which I am about to enter. So help me God."

There are as many seats in the House as there are representatives and territorial delegates. Each seat is numbered and is assigned in the House to members by lot at the opening session of each Congress. It is the custom for members of different political parties to occupy different sides in the hall. Members who have served in the House for a long time are usually given preference in the selection of seats. Members of the House and Senate are now furnished offices, by the government, in new buildings built expressly for that purpose.

After the different officers of the House are elected, and

the organization is completed, the standing committees of the House are elected by vote of the House. The fate of most measures depends upon the action of the committee to which it is referred. Speaker Reed, in referring to the importance of the committees of the House, said: "The committee is the eye, and ear and hand, and very often the brain, of the assembly. Freed from the very great inconvenience of numbers, it can study a question, obtain full information, and put the proposed action into proper shape for final decision. The appointment of a committee also insures to the assembly the presence during the debate of members who have made some examination of the question, and tends to preserve the assembly from its great danger, that of being carried away by some plausible harangue which excites feeling, appeals to sentiment, and obscures reason." When a bill that has been referred to a committee, is cast aside and not reported, it is said to be "killed in the committee."

After the organization of the House and the Senate, each house authorizes its clerk to notify the other that it is organized and ready to proceed to legislative business. Both then appoint committees to act as a joint committee to wait upon the President to inform him that Congress is organized and ready to receive any communication he may desire to make.

Sec. 3, Clause 1. — *The Senate of the United States shall be composed of two Senators from each State, [chosen by the legislature thereof]* [1] *for six years; and each Senator shall have one vote.*

Election of Senators by State Legislatures. — Until 1866, the legislature of each state chose senators in its own way.

[1] The manner of electing senators as indicated in section 3, clause 1, has been changed by Amendment XVII.

This caused many disputes as to the time and manner in which the election should be held to be legal. In accordance with its rights under the Constitution, Congress in 1866 prescribed the time and manner of choosing the senators by the state legislatures, and thus procured uniformity. This procedure held until 1913, when it was superseded by Amendment XVII, which provides for the election of the senators by popular vote instead of by state legislatures. Long drawn out deadlocks in legislatures frequently resulted in no senators being chosen. As a governor's appointee would not be seated when a legislature failed to choose, the seat remained empty until a senator was chosen by another legislative session. Frequently a state had but one senator at Washington, and in 1901 Delaware had no senators at all. These bitter contests frequently led to bribery and the election of wealthy but inferior men. Always where the senatorial election struggle was prolonged, a legislature's time, which should have been given to the state for useful enactments, was spent in scheming and plotting to elect a senator. Frequently the usefulness of an entire legislative session was ruined.

Demand for Popular Election of Senators. — While unsuccessful attempts were being made to get the Senate to act with the House in proposing an amendment to the Constitution providing for popular election of senators, devices were adopted in several states to control the action of legislatures in the choice of senators. By means of direct primary elections, or through state conventions, the people expressed their choice for senators. The nominees of the people thus chosen were morally forced upon the legislatures and usually confirmed. In Oregon, a candidate for the state legislature was practically forced to agree to vote

for the candidate for senator who received the largest popular vote in the state regardless of party. This method elected a Democrat to the Senate when the legislature was Republican. The Seventeenth Amendment to the Constitution was finally proposed by Congress after much agitation and long discussion, and it was promptly ratified by the necessary number of states.

Amendment XVII. — *The Senate of the United States shall be composed of two senators from each State, elected by the people thereof, for six years; and each senator shall have one vote. The electors in each State shall have the qualifications requisite for electors of the most numerous branch of the State legislatures.*

When vacancies happen in the representation of any State in the Senate, the executive authority of such State shall issue writs of election to fill such vacancies: Provided, That the legislature of any State may empower the executive thereof to make temporary appointments until the people fill the vacancies by election as the legislature may direct.

This amendment shall not be so construed as to affect the election or term of any senator chosen before it becomes valid as part of the Constitution.

Present Election of Senators. — In all the states, now, candidates for senator are nominated by direct primaries or through state conventions. After the nominations by the different political parties, the names of candidates are put upon a ticket and voted for by the entire electorate of a state in the same manner as governors and other state officers are chosen. It is too soon to judge of the effects of popular elections on the Senate itself, but indications are that it will be a body much more responsive to the popular will, which, in the main, is an improvement, for that body has many times proved ultra-conservative. Enough has

been seen to justify the conclusion that, as it was under the old method of electing senators, a state does not yet always choose, as it should, its strongest and most desirable men.

The Senate. — The Senate of the United States is known as the upper house of Congress, and is regarded as a body of great dignity and power. It is composed of two senators from each state, who represent the whole state, and not any part or separate interest or district in the state. They are elected for six years. There are now 48 states; hence, 96 senators, a small number as compared with the English House of Lords, which has over 600 members, and the French Senate, which numbers 300. Each senator is entitled to one vote, which gives each state two votes. Senators from the same state are frequently elected by different political parties, and do not have the same opinions concerning public questions and issues.

Equal Representation in the Senate. — As has been noted, representation in the lower house of Congress is based upon the total number of people in all the states, each state having representation in the House according to the population of the state; but in the Senate the states have equal representation. No bill can become a law until it passes both houses of Congress; and so far as the Senate is concerned, the smallest state in the Union has as much power in the making of laws as the largest one. This principle of equal representation was the result of a compromise effected after much earnest and able discussion in the constitutional convention.

Selections of Seats in the Senate. — Seats in the Senate are selected as follows: The senator who first expresses a desire for a vacant seat or one that is to become vacant is

entitled to it. When a senator desires a seat that is not vacant, he puts his name down in a book arranged for that purpose as an applicant for that particular seat. As soon as it becomes vacant, he is entitled to the seat.

Sec. 3, Clause 2. — *Immediately after they shall be assembled in consequence of the first election, they shall be divided, as equally as may be, into three classes. The seats of the senators of the first class shall be vacated at the expiration of the second year, of the second class at the expiration of the fourth year, and of the third class at the expiration of the sixth year, so that one-third may be chosen every second year; [and if vacancies happen, by resignation or otherwise, during the recess of the legislature of any State, the executive thereof may make temporary appointments until the next meeting of the legislature, which shall then fill such vacancies].*[1]

Division of Senators. — The first Senate under the Constitution convened on the 4th of March, 1789, with twenty senators present. Ten of the thirteen states of the Union had elected senators. New York had failed to elect, and Rhode Island and North Carolina had not ratified the Constitution. Under the Constitution the Senate proceeded to divide the twenty senators present into three classes. This was done by lot, and resulted in placing seven senators in the first class, seven in the second, and six in the third class. The seven senators of the first class were to serve two years; those of the second class, four years; and those of the third class, six years, or a full term. Other senators were put in the different classes as they entered the Senate. As new states have been admitted into the Union, their senators have been assigned to the different classes by lot drawn in the presence of the Senate, and the different classes have been kept as nearly

[1] The part in brackets was superseded by Amendment XVII.

equal as possible. There are (1914) thirty-two senators in each class.

Vacancies. — Some confusion arose about the manner of filling vacancies after the adoption of the Seventeenth Amendment. A governor of a state may no longer appoint a senator to fill a vacancy unless duly authorized to do so by the state legislature. A senator so appointed holds office for such a time as the legislature has designated, when a special election may be held, or a regular state election occurs.

Sec. 3, Clause 3. — *No person shall be a senator who shall not have attained to the age of thirty years, and been nine years a citizen of the United States and who shall not, when elected, be an inhabitant of that State for which he shall be chosen.*

The Qualification of Senators. — The constitutional convention sought to give the Senate exceptional prestige, dignity, and power. They desired to make it a conservative, dignified body of qualified, broad-minded men of experience and character whose main function would be to serve as a check on any hasty legislation and to give ballast to the legislative power of Congress. Not only was it made a perpetual body, but great emphasis was placed upon residence, age, and citizenship of the members composing it. Before a person can be a senator he must be at least thirty years old, must have been a citizen of the United States for nine years, and as is the case of the representatives, be an inhabitant of the state from which he is chosen. This qualification gives him who aspires to hold this high office, an opportunity to make liberal preparation, and affords the public an opportunity to form an impartial and intelligent opinion of his fitness for the place.

Sec. 3, Clause 4. — *The Vice President of the United States shall be President of the Senate, but shall have no vote, unless they be equally divided.*

The Vice President. — The Vice President of the United States is President of the Senate. He cannot take part in the discussions on the floor of the Senate, nor has he the right to appoint committees or do anything else that would influence legislation. He has no right to vote except in case of a tie, and, if he desires, he may refuse to vote in this case, in which event the pending measure would fail to pass the Senate. Senators address him as " Mr. President," and he designates the members of the Senate as " Senator."

The office of Vice President has degenerated since the manner of election was changed by the Twelfth Amendment, and political parties frequently nominate inferior men wholly because of their availability, or on account of wealth or powerful business influences. Men of real ability generally shun the position, since it so often means political oblivion.

Sec. 3, Clause 5. — *The Senate shall choose their other officers, and also a president pro tempore, in the absence of the Vice President, or when he shall exercise the office of President of the United States.*

Officers of the Senate. — The officers of the Senate are: The President, President *pro tempore*, secretary, chief clerk, doorkeeper, sergeant-at-arms, postmaster, librarian, and chaplain. None of these are members of the Senate except the President *pro tempore*. The President *pro tempore* is selected from the Senate, and has all the privileges of any other member of the Senate, and the additional powers of the Vice President while he is acting as presiding

officer of the Senate. He can debate and vote on any question that comes before the Senate, but under no circumstances, can he cast more than one vote. In case the Vice President becomes President of the United States, the President *pro tempore* of the Senate draws a salary the same as that of the Vice President. All the other officers excepting its president are chosen by the Senate and have duties similar to those of the House of Representatives. The Senate also, like the House, elects its standing committees.

Sec. 3, Clause 6. — *The Senate shall have the sole power to try all impeachments. When sitting for that purpose, they shall be on oath or affirmation. When the President of the United States is tried, the chief justice shall preside; and no person shall be convicted without the concurrence of two-thirds of the members present.*

Impeachment Trials. — After the articles of impeachment have been preferred by the House of Representatives, the person accused is summoned by the sergeant-at-arms to appear before the Senate. The Senate takes a special oath to give the accused a fair and impartial trial, and sits as a jury to hear the evidence and arguments of both sides. It requires the affirmative vote of two thirds of the members present to sustain the action of the House in preferring articles of impeachment. The penalty of impeachment is restricted to removal from office and disqualification to hold and enjoy any office of honor, trust, or profit under the United States.

In the impeachment trial of President Johnson, since there was no Vice President, Senator Ben Wade of Ohio was president *pro tempore* of the Senate, and would have at that time succeeded to the presidency, had President Johnson been convicted of the charges he was accused of.

Senator Wade was a bitter opponent of Johnson and asserted his right to vote as a senator from Ohio, even though that vote might have promoted him to the presidency. The provision making the chief justice preside when the President is on trial is obviously a wise one.

Sec. 3, Clause 7. — *Judgment in cases of impeachment shall not extend further than to removal from office, and the disqualification to hold and enjoy any office of honor, trust, or profit, under the United States; but the party convicted shall nevertheless be liable and subject to indictment, trial, and punishment, according to law.*

Penalty for Conviction by Impeachment. — The penalty for conviction by impeachment is clearly defined in the Constitution. If the charges preferred by the House be established, the Senate prescribes all or part of the penalty as provided. Persons impeached may still be tried by the proper courts for a criminal violation of the law.

Sec. 4, Clause 1. — *The times, places, and manner of holding elections for senators and representatives shall be prescribed in each state by the legislature thereof; but the Congress may at any time, by law, make or alter such regulations, [except as to the places of choosing such senators].*[1]

When Representatives are Elected. — In 1872, Congress fixed Tuesday after the first Monday in November as the day for the election of national representatives in the different states. Several of the states had previously fixed in their Constitutions the time for the election of the representatives, and Congress did not require these states to comply with the new law. One by one, however, these

[1] This exception is no longer of importance; for naturally senators will be voted for at the same places as other officers. The provision was important when senators were elected by the state legislatures.

states have altered their constitutions to comply with it, except that Maine and Vermont still hold their election in September.

Sec. 4, Clause 2. — *The Congress shall assemble at least once in every year, and such meeting shall be on the first Monday in December, unless they shall by law appoint a different day.*

Sessions of Congress. — Annual sessions of Congress are required under the Constitution, and, as each Congress lasts two years, not less than two sessions can be held during each Congress.

Sec. 5, Clause 1. — *Each House shall be the judge of the elections, returns, and qualifications of its own members, and a majority of each shall constitute a quorum to do business; but a smaller number may adjourn from day to day, and may be authorized to compel the attendance of absent members, in such manner, and under such penalties, as each House may provide.*

Election Returns. — Each House has the privilege of judging of election returns and the qualifications of its own members. This is necessary to their independence. The Committee on Elections of each House investigates all contested elections and makes a report to its respective body. The recommendation of the committee is usually sustained. Unfortunately, partizanship rather than justice frequently prevails in the disputed election cases.

A Quorum. — It takes a majority in each house to constitute a quorum for the transaction of business. In determining whether a quorum is present in the House, all the members present are counted even if they do not answer to the roll call. This rule, however, has not been adopted in the Senate. Only voting senators are counted. A smaller number than a quorum may adjourn from day to

day, and, under certain regulations and penalties fixed by each body, compel the attendance of absent members. This rule prevents a legal dissolution when a majority of the members are not present; and, under a special rule of the House of Representatives, fifteen members, including the speaker, may compel members to attend. The power vested in these fifteen members insures the presence of a quorum. The absent members are brought before the House by the sergeant-at-arms. This method of securing a quorum is known as a " Call of the House."

Sec. 5, Clause 2. — *Each House may determine the rules of its proceedings, punish its members for disorderly behavior, and, with the concurrence of two thirds, expel a member.*

Parliamentary Rules. — In the beginning of each session of Congress a committee is appointed by each house to draft parliamentary rules to govern the work of each body. The rules of the preceding Congress are generally used until new ones are reported by the committee and accepted.

Punishment of Members. — Each house has the power to discipline its members. A member may be punished as each house deems proper. He may be reprimanded or expelled, the latter procedure requiring a two-thirds vote. The following is taken from Reed's Parliamentary Rules:

" Probably the House has power to inflict other punishments. The United States Supreme Court in Kilbourn *vs.* Thompson, 13 Otto, 168, says, speaking of the power of punishment: ' We see no reason to doubt that this punishment may be, in a proper sense, imprisonment, and that it may be for refusal to obey some rule on that subject made by the House for the preservation of order.' If the House of Representatives can imprison, it would seem that it could suspend without imprisonment."

Sec. 5, Clause 3. — *Each House shall keep a journal of its proceedings, and from time to time publish the same, excepting such parts as may, in their judgment, require secrecy; and the yeas and nays of the members of either House on any question shall, at the desire of one fifth of those present, be entered on the journal.*

The Journal and the Yea and Nay Vote. — The journal of each house is carefully kept. It is the record of the business actually transacted. In addition, the entire proceedings, debates and all, are reported by stenographers and printed in the Congressional Record, which becomes the complete history of Congress. During the session of Congress it is published daily at the expense of the government. The public is entitled to know what Congress is doing, and the publication of the proceedings keeps the public informed, and is an incentive to members of Congress to look after the interest of the people of their districts as well as the people at large.

The yea and nay vote is taken on the call of one fifth of the members present, and, when this vote is ordered, each member's name and how he voted is registered on the journal. When the call of the yeas and nays is made, the members' names are called alphabetically.

Sec. 5, Clause 4. — *Neither House, during the session of Congress, shall, without the consent of the other, adjourn for more than three days, nor to any other place than that in which the two Houses shall be sitting.*

Adjournment of Congress. — Section 5, Clause 4, of the Constitution insures the closest coöperation between the two houses, and prevents either house from adjourning for a longer time than three days without the consent of the other. If either house could adjourn independent of the

other, legislation could be stopped at any time by such a procedure.

Sec. 6, Clause 1. — *The senators and representatives shall receive a compensation for their services, to be ascertained by law, and paid out of the treasury of the United States. They shall, in all cases except treason, felony, and breach of the peace, be privileged from arrest during their attendance at the session of their respective Houses, and in going to and returning from the same; and for any speech or debate in either House, they shall not be questioned in any other place.*

Salaries. — The salary of senators and representatives is fixed by law, and is paid out of the treasury of the United States. The members of both houses receive $7500 per year and mileage at twenty cents per mile in going home from Washington and returning "by the nearest route." The speaker receives $12,000 per year and mileage; the president *pro tempore* receives the same amount as while acting as president of the Senate.

Detention of Members and Freedom of Debate. — In order to secure freedom of debate, representatives and senators cannot be arrested during the session of Congress, except in case of treason, felony, and breach of peace. Freedom from arrest is also "a safeguard against the passage of noxious legislation by the detention or removal, under legal forms, of men whose presence would make such action impossible."

Sec. 6, Clause 2. — *No senator or representative shall, during the time for which he was elected, be appointed to any civil office under the authority of the United States, which shall have been created, or the emoluments whereof shall have been increased during such time; and no person holding any office under the United States shall be a member of either House during his continuance in office.*

Civil Officers and Fraud. — Representatives and senators cannot hold a civil office under the authority of the United States. Neither have they a right to resign to accept an office that was created, or one whose salary was raised during the time for which they were elected. This clause was put into the Constitution to prevent fraud and to avoid abuses. Senators and representatives may be appointed to military office, as it is not considered a civil office.

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SUGGESTIVE QUESTIONS

1. State the advantages of having two houses in our Congress.

2. When does Congress meet? How long are the sessions? How are representatives chosen? Qualifications of?

3. How were representatives originally chosen? How elected now?

4. What rights have territorial delegates?

5. How is a vacancy in the House filled?

6. How is a speaker of the House chosen? What are his duties and powers?

7. Who are the other officers of the House? Give duties.

8. How are senators chosen? Term? How is the Seventeenth Amendment an improvement over the old method of electing senators?

9. Why have equal representation in the Senate from all states? What are the advantages of this system? How is this method unfair?

10. How are vacancies in the Senate filled?

11. What are the qualifications of a senator?

12. What are the duties of a Vice President? Why is this high office so lightly regarded?

13. What other officers has the Senate? Duties of?

14. What is impeachment? Define the duties of the House and Senate in impeachment proceedings. What is the penalty?

15. When are congressmen regularly elected? When does Congress regularly meet?

16. Would it be better to have a new Congress meet at once after an election?

17. What right has each house concerning election returns?

18. What is meant by a quorum?

19. Why should little secrecy obtain ordinarily in sessions of committees of Congress? Of Congress itself?

20. May the Senate sit when the House is not in session? Why? May the House sit without the Senate? Why?

21. Why are members privileged from arrest? Why are they only subject to questioning in the body to which they belong concerning remarks made there?

22. Why are members of Congress prevented from aspiring to certain offices?

QUESTION FOR DEBATE

Resolved, That the Vice President should be an advisor to the President in a capacity similar to that of a cabinet officer.

CHAPTER VII

HOW LAWS ARE MADE

The People. — Before going further in an analysis of the Constitution, it will be well to study the way in which laws are passed by Congress. Indeed, in tracing the steps by which national laws are made we shall see that the method relates as well to the manner of making all local and state laws. The people are, or should be, behind every law or proposed law. If they fail to secure the legislation which they desire, it will be, in the main, for the want of an aggressive action in making themselves a part of the public voice. From the sovereign individual an idea may enter the home, the neighborhood, the legislative district, the county, the congressional district, the state, the nation, and finally become a law.

A law begins by first passing the congresses of minds; then it passes the congresses of the government. A bill introduced into Congress begins as an idea of one person, a committee, or a political convention, or as a combination of ideas of several persons, committees, or political conventions. Every bill begins merely as an idea, and this idea afterwards becomes a public issue, then a plank in a political platform, and finally a law.

The Home and the Idea. — The idea originates, let us suppose, as a current topic in the home. From here it gets into the newspapers and periodicals which are always found in the enlightened American home, and coming thus promi-

nently before the people, it becomes a public issue. Soon public gatherings begin to discuss it; the school takes it as a topic for debate; a general local interest is aroused, and the people begin to desire that it be enacted into a law. Now the people have learned that whatever they want in the way of legislation, they can get by working for it. Accordingly they meet in assemblies throughout the district where this idea has taken hold, and draw up petitions that it be incorporated as a part of the political platform. Delegates are sent to the county convention to speak, work, and vote for the idea, and see to it if possible, that it is accepted by that body. Thus what was at first merely a local idea may become of general interest and concern.

County Conventions and the Idea. — The majority of the members of the county conventions, let us say, favor the proposed measure. Accordingly, they send delegates to the congressional district convention pledged to vote for the nomination of a candidate for Congress who is also in sympathy with the idea, and will do everything in his power to secure its passage through the national Congress. Other counties in the different congressional districts of the different states pursue the same course, and, as a result, the different congressional district conventions are largely in favor of the measure.

The Congressional District and the Idea. — When the congressional district conventions convene to nominate candidates for Congress, they will be found to be in favor of the proposed law. This is only natural as these conventions are simply the reflections of the desires, the petitions, and the instructions of the individual, the home, the community, and the county convention. Congressional candidates who believe as the district conventions do, have

expressed themselves concerning the idea, and who promise to use every effort in their power to secure the passage of the proposed law, are nominated. Thus the members of the House of Representatives will be in favor of the idea and will pass a bill that embodies it.

State Conventions and the Idea. — The idea, as has been seen, that originated in the home becomes a public issue, then a leading principle of one of the great political parties. The state convention exercises the natural powers delegated to it in fostering the principle, in nominating a friendly candidate for senator, and in sending delegates to the national convention who are in favor of the issue. It also names presidential electors at large pledged to vote for a President who will use his influence in securing the passage of the proposed bill. Also the delegates from each congressional district named one elector and selected delegates to the national convention or nominated these delegates by direct primaries. The electors and delegates chosen, indorsed the new political thought. In other states, a similar course was followed by conventions, or the same result was secured by the people voting in direct primaries.

The National Convention and the Idea. — The national convention next meets to nominate a candidate for the presidency of the United States. The convention is largely in favor of the proposed law and makes it a plank in the national platform. The President is elected on this platform, and, on beginning his duties as President of the United States, recommends the passage of the law in his message. Finally, the proposed measure is introduced in the House of Representatives in the form of a bill, and passes the House and the Senate. The bill is sent to the President, who affixes his signature, and it becomes a law.

Artificial Laws. — Any law that does not take its origin directly or indirectly from the expressed opinion and desire of the majority, is an artificial law. The people of a republic are the natural law makers. There is no question but that a few of our laws began as ideas born in the souls of selfish men who put the dollar and personal profit above the government and the general welfare. Usually such measures are known only to the lobby and lobbyist prior to their final enactment into laws. It is to be regretted that every law that reaches the statute books does not spring from an expressed desire of the people. But this is becoming more and more the case.

Political Parties. — Political parties have their origin in a difference of opinion among the people concerning public questions, and in the rights and duties of a citizen under the Constitution. We shall have political parties as long as men use their own minds and think for themselves. The political party is the child of a representative system of government. It is the product of a government by public opinion. Without political organizations, through which to express the public will and choice, it would be almost impossible for the people to govern and shape the policy and character of our nation and control the making of laws. Political questions must be decided by majorities, and the political party is the agent through which majorities are obtained. There is no other force in our government that does so much to create public opinion and to set people to thinking about public questions as does a political party. Mr. James Bryce, in speaking of this, said: " But the spirit and force of party has in America been as essential to the action of the machinery of government as steam is to the locomotive engines; or, to vary the simile, party associa-

tions and organization are to the organs of government almost what the motor nerves are to the muscles, sinews, and bones of the human body. They transmit the motive power, they determine the direction in which the organs act." [1]

Those persons who championed the idea, as discussed previously, and labored to make it a civil law, formed one organization, and those who objected to it formed another. This idea might be the beginning of a new political party or a plank put in the platform of one of the established parties. American public opinion, always on political, and very frequently on moral and social questions, crystallizes into thought and finds itself expressed in the creed and platform of some party, and then if worthy, sooner or later becomes a law. Political parties and their problems will be treated more at length in another chapter.

Public Opinion. — There is no one principle of greater importance to a free government, than the expression of individual thoughts and desires concerning all questions and public issues that come before the people, and there is no higher test of one's love of country than his aggressiveness in fostering the principles of his government by becoming an active worker in the making of public sentiment. The will, the ideas, the thoughts, the desires, and the individualities of all the people should be the nation's voice and act in making laws, in defining policies, and in transacting all business that concerns the people. But this will not be the case unless the citizen studies the ethics of his government, thinks for himself, and asserts his own natural right to be a part of every public expression. A mere negative unexpressed self, with no opinions concerning public

[1] "The American Commonwealth," II, 3d ed., page 3.

affairs and business, is cowardly and unpatriotic. One cannot take himself out of public opinion. One is an inseparable part of it. Every citizen is in duty bound to give that which concerns the interests of his country, his attention; for in refusing to do so he violates a civic trust and proves unworthy of his government. Our country depends very largely upon a cultured, moral individual life that expresses itself in positive terms through the voice of public opinion.

Unfortunately, there are many honest citizens who attend faithfully to their daily business affairs, but fail to realize that they are partly responsible for the administration of the government and its public acts. They seem to lose sight of the fact that patriotism demands civic aggressiveness, and that their own conduct is wholly inconsistent with the thought upon which our nation is built.

Sec. 7, Clause 1. — *All bills for raising revenue shall originate in the House of Representatives; but the Senate may propose or concur with amendments as on other bills.*

The Constitution thus requires that all revenue bills must be passed upon first in the House of Representatives. With this exception a bill may originate in either house. On this most important matter our Constitution follows that of England, where revenue bills must originate in the House of Commons. It has recently been enacted by that body that the Lords may not even amend such bills. The question of who should control the finances of our government called forth a long debate in the constitutional convention and it was not settled till the end. The main reason for giving the lower house this power, seemed to be a feeling that since representatives are nearer the people, they would better know their ability to pay. They are also more

quickly and directly responsible to the people than are the senators; hence would be likely to exercise greater precaution in this delicate matter.

Sec. 7, Clause 2. — *Every bill which shall have passed the House of Representatives and the Senate, shall, before it become a law, be presented to the President of the United States; if he approve, he shall sign it; but if not, he shall return it with his objections, to that House in which it shall have originated, who shall enter the objections at large on their journal, and proceed to reconsider it. If, after such reconsideration, two thirds of that House shall agree to pass the bill, it shall be sent, together with the objections, to the other House, by which it shall likewise be reconsidered, and if approved by two-thirds of that House, it shall become a law. But in all such cases the votes of both Houses shall be determined by yeas and nays, and the names of the persons voting for and against the bill shall be entered on the journal of each House respectively. If any bill shall not be returned by the President within ten days (Sundays excepted) after it shall have been presented to him, the same shall be a law, in like manner as if he had signed it, unless the Congress by their adjournment prevent its return, in which case it shall not be a law.*

Sec. 7, Clause 3. — *Every order, resolution, or vote, to which the concurrence of the Senate and the House of Representatives may be necessary (except on a question of adjournment) shall be presented to the President of the United States; and before the same shall take effect, shall be approved by him, or, being disapproved by him, shall be repassed by two thirds of the Senate and House of Representatives, according to the rules and limitations prescribed in the case of a bill.*

Orders and Resolutions. — Every order, resolution, or vote that requires the concurrent action of the two houses must be presented to the President for his signature. This requirement was made by the Constitution in order to prevent Congress from passing, under the name of order,

resolution, or vote and without his signature, measures that are in their nature laws. Congress can, however, adjourn, pass an order directing the sergeant-at-arms to compel the attendance of members, or vote thanks for favors received without the approval of the President. A resolution proposing a constitutional amendment does not require the approval of the President; nor does a concurrent resolution expressing only a sentiment. Only when a joint resolution has the force of a law must it be sent to the President for approval.

The Course of a Bill through Congress. — To illustrate the process of a measure in passing Congress, let us suppose a bill to be introduced in the House by a representative. This being done the bill is generally referred by the Speaker to an appropriate committee, though the House may direct that it shall go to a certain committee. This committee considers the bill and reports it back to the House with such recommendations and alterations as it desires to make. The recommendation of the committee is usually ratified by the House, though it has the right to take any action it may desire. If the bill is reported favorably by the committee, it is printed, and copies of it are distributed among the members. Every bill is read three times on three separate days, unless by unanimous consent it is given its second and third reading on the same day. These readings are by title only the first time; the second time a bill is read in full, amended if desired, and placed upon the calendar; the third reading is by title only unless otherwise demanded. The vote is taken on it after its third reading. After its passage in the House, it is sent to the Senate for consideration. If the Senate should amend it, the bill would be again presented to the House for action. When it has

passed both houses of Congress in the same form, it is turned over to the Committee on Enrolled Bills to be enrolled, that is, carefully and accurately written in a plain hand on parchment. This copy of the bill is signed by the speaker of the House, and by the president of the Senate, after which it is sent to the President, who affixes his signature, thereby making it a law. It will not be necessary to give the course of a bill originating in the Senate, as the procedure is similar to that just given.

The Veto. — The President has the power to veto any bill that passes Congress. This executive power is one of the checks in our system of legislation. Vetoing a bill consists in the President's refusing to sign it and writing out his objections to the bill, which he sends back to the house in which it originated. The President cannot veto one part and approve another part of a bill, but he must either approve or disapprove all of the bill as a whole. But Congress has a recourse from the President's veto. Our fathers in their wisdom gave these legislative bodies a restraining power over the executive by making it constitutional for Congress to pass a bill over the President's veto by a two-thirds vote of each house. The purpose of the veto was to preserve the government of checks and balances, and was intended to protect the executive from the encroachments of Congress. To-day it is used, as Mr. Bryce puts it, " on grounds of general expediency." Prior to 1885, only one hundred thirty-two bills were vetoed. Then came President Cleveland, who vetoed three hundred bills in his first term. They were mostly private pension bills which had been rushed through Congress, sometimes at the rate of three a minute. A President is generally approved by public opinion for freely using the veto on measures in which he

feels Congress has been hasty. At most the exercise of this power can do the real spirit of democracy little harm, for if reasons deemed insufficient are given for the veto, Congress may still, by a two-thirds vote, make the bill a law, but that body must then assume all responsibility to the people for any measure so passed. The Constitution does not say whether or not the President may sign a bill after Congress finally adjourns. Only once has this been done, when in 1863 President Lincoln signed a bill nine days after a final adjournment of Congress. Precedent is entirely against it in the federal government, but some states allow it.

The Committee System. — Each house of Congress is divided into groups known as committees. The same man usually serves on several committees. Prior to 1910, as previously said, the committees of the House were chosen by the speaker. At the opening of both the sixty-second and the sixty-third Congress, the Ways and Means committee, acting as a steering body in the House, nominated the other committees; but the committees were formally elected by ballot of the entire House. In the Senate also the committees are elected by ballot of the entire body. Senator Hoar, in speaking of the influence of congressional committees, called them "little legislatures." It is not hard to understand the significance of his term when we fully realize that every measure introduced in Congress is referred to some committee before it is considered by the body into which it is introduced, as a whole, and that the reports of these committees are usually sustained. Of course, either house has the right to reject the action of the committee and pass a bill regardless of its recommendation to the contrary, but this is rarely done. Committee meetings for the purpose of considering bills are usually

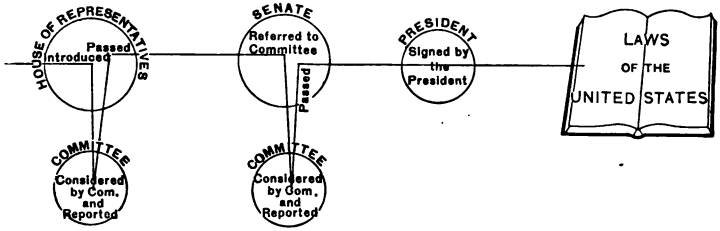
secret. A certain time, however, may be named when the advocates and opponents of a bill may appear before the committee and argue the advantages and disadvantages of the proposed law. The work of a committee is to investigate thoroughly all bills referred to it, and it may also originate measures of its own and report to the house the result of its labors. It has a right to propose amendments to a bill and embody these proposed amendments in its report. When a committee reports a bill too late for the pending session of Congress, or fails to report it at all, the bill is said to have been " killed in the committee."

The committees in the House consist of from three to twenty-two members each, the first man named acting as chairman. The House has about sixty standing committees, but this number varies somewhat at different sessions, as does that of the seventy standing committees of the Senate.[1] In the House the two committees that rank highest are the Ways and Means committee, which handles all bills for raising revenue, and the committee on Appropriations, which controls the expenditures. In the Senate those on Finance, Appropriations, and Foreign Affairs rank as the most important. A bill is handed to a certain committee by its author or if introduced in the House is referred to its proper committee by the presiding officer unless voted otherwise by the House. From 12,000 to 15,000 bills are introduced in Congress in one session, nine tenths of which fail to become laws. The sixty-first Congress broke the previous records for the introduction of all kinds of bills — 33,015 all told, there being besides 1500 resolutions of various kinds. With all this material the houses as a

[1] The sixty-second Congress had seventy-two committees in the Senate; the House had a total of fifty-six.

whole could do nothing, hence it devolved upon the various committees to sift out the relevant and important measures. It will be seen readily that much good material may be lost in committees, for only a few measures not favorably reported ever become laws during any session. Two evils of the committee system are: it breaks the unity and interest of the legislative body as a whole, since it is in the committee that the member does most of his work; and second, it gives a great opportunity for powerful influences to advance or throttle measures of special interest and use "graft" if the members of the committee are susceptible.

The passage of a bill through Congress is shown in the diagram.



In cases of a deadlock between the two houses, concerning proposed amendments, each house holding to its own bill, the bill is either lost or is referred to a joint conference committee. This conference committee, consisting of several members from each house, is especially appointed to consider the measure causing the deadlock; and if it comes to an agreement concerning the measure, the two houses almost invariably accept the committee's report, which is generally a compromise measure.

Filibustering. — Many of the bills introduced in Congress and favored by a large majority of the members, have failed to become laws. This happens on account of "filibuster-

ing," a method frequently resorted to by members of the minority in order to block legislation. "Filibustering" consists of making motions to adjourn, motions to take recess, the preventing of the securing of enough members to order the yea and nay vote, and the using all other means and dilatory tactics that conduce to time killing, thus preventing the bill from coming to a vote. There are many parliamentary tactics that can be employed by the minority in its efforts to defeat bills and block legislation. But public opinion has rendered "filibustering" unpopular.

A roll call in the House takes at least half an hour and this in the past was frequently employed as a means of delay. The speaker now has authority arbitrarily to order a count of the members present instead, even if they are voting, thus avoiding the delay occasioned by a complete roll call. This ruling is especially effective when a minority is trying to break a quorum. It fell to Speaker Reed in the fifty-first Congress to apply the new rule for the first time, and it has been upheld by the courts. The speaker with a majority of the House, through what is known as the "previous question," may also limit debate. In the Senate filibustering generally takes the form of talking a measure to death toward the end of a session; for the Senate rules permit unlimited debate. Much criticism is directed at the Senate for allowing unlimited debate producing useless delay, and reforms on this point may be expected in the near future.

Logrolling. — In recent years much is heard of "log-rolling" in Congress. This means that a congressman who has a bill which he has introduced and which he desires to become a law, secures his neighbor congressmen to help to roll his measure through Congress. In short, he goes

to them and says: "You help me pass my bill when it comes before the House and I will vote for, and help you pass your bill when it comes to a vote." Possibly it would be safe to say that the "logrolling" method is employed in the passage of most bills.

Party Politics. — It must not be forgotten that politics plays a very important part in shaping legislation. The majority party organizes each house, and as it is responsible to the people for the principles and measures it advocated during the campaign, it tries, if faithful to its trust, to carry out its pledges. Very often these measures will be vigorously opposed in Congress on partisan grounds as well as on principle; as, for instance, the question of the tariff. Here, if the party organization is effective, the caucus of the party plays an important part, as it outlines a course of action to be followed in passing or defeating measures. It is the duty of a certain member of the caucus called the "whip" to get everybody present to vote as the caucus agreed, particularly on special bills; and it is considered party treason to "bolt" a caucus agreement if the member participated in the caucus. In the House the speaker is the leader of his party, and is assisted especially by the chairmen of the various committees. It can easily be seen that in a body as large as the House, there must be organization to get best results. The speaker until recently appointed all committees, and through his influence on them was able to push through almost any bill he wanted to become law, or to destroy one to which he was opposed. In a partisan debate he could formerly gain party prestige by recognizing whom he pleased for debate; since 1911 he is required to recognize the member who first rises. In spite of the recent restrictions placed upon

his office, he is still very powerful though the House as a whole is more nearly supreme. It might be well to add here that, paradoxical as it may seem, much better results for the people would be obtained if they were not represented by so large a body of legislators. If the House were one third smaller, responsibility could be more easily fixed, and business would be greatly expedited.

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SUGGESTIVE QUESTIONS

1. Who are the real law makers in the United States?
2. Show how public opinion develops.
3. How does an idea become a law?
4. How are members of different conventions chosen as delegates?
5. Why does a republic depend so much upon organization?
6. Where must bills for revenue originate? Why?
7. Trace a bill through Congress.
8. Describe the committee system of Congress.
9. Why was the President given the right to veto?
10. What is filibustering? Is it ever justifiable?
11. How may a bill be passed over the President's veto?

QUESTION FOR DEBATE

Resolved, That all the meetings and proceedings of committees in Congress should be public.

CHAPTER VIII

THE POWERS OF CONGRESS

Article I, Sec. 8. — *The Congress shall have power:*

Clause 1. — *To lay and collect taxes, duties, imposts and excises, to pay the debts and provide for the common defense and general welfare of the United States; but all duties, imposts and excises shall be uniform throughout the United States.*

To grant the power to lay and collect taxes, duties and imposts, and make them uniform throughout the United States, was one of the most difficult problems the constitutional convention had to solve. The experience of the government under the Articles of Confederation, however, proved that this power must be granted. Nothing less could hold the states together, or give the new government any stability whatever; hence the above constitutional provision.

The subject of federal taxes is discussed more fully in Chapter IX.

Sec. 8, Clause 2. — *To borrow money on the credit of the United States.*

This subject is discussed in Chapter X.

Sec. 8, Clause 3. — *To regulate commerce with foreign nations, and among the several States, and with the Indian tribes.*

Regulation of Commerce. — Prior to the adoption of the Constitution, each state had the power to regulate its own commerce with foreign nations and with other states.

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Naturally each state used every effort to serve its own interest even though it were detrimental to the other states, or even to the general welfare of the nation. This, of course, was very unsatisfactory, as it worked many grievous wrongs to individuals and to states, and therefore the constitutional convention had but little hesitation in granting to Congress the power to regulate commerce. The powers of Congress granted in this clause were limited by Section 9, Clause 5, relative to articles exported from any state; also by Section 9, Clause 6, regarding the regulation of interstate commerce and revenue. This subject is treated further in Chapter IX.

Sec. 8, Clause 4. — *To establish a uniform rule of naturalization, and uniform laws on the subject of bankruptcies throughout the United States.*

An Alien. — Congress is given the power to provide for the uniform naturalization of aliens. An alien is a person who, on account of his birth under the jurisdiction of a foreign country, is not entitled to all the privileges of citizens of the United States.

Naturalization. — Naturalization is the legal act by which the alien is admitted into the same privileges as those enjoyed by a natural-born citizen, except eligibility to the presidency and the vice presidency.

Citizenship. — Congress has never given a definition of citizenship, neither is it defined by the Constitution. The Fourteenth Amendment of the Constitution tells us who are citizens in the following language: "All persons born or naturalized in the United States are citizens thereof, and of the states wherein they reside." Kent defines a citizen as follows: "Citizens under our Constitution and

laws, mean free inhabitants born within the United States or naturalized under the laws of Congress." In 1790 Congress passed a naturalization law, and since then nearly two dozen other laws have been passed on the subject. Under these definitions an alien can become a citizen only by complying with the requirements prescribed by Congress.

Naturalization Laws of the States. — If each state had the power to form its own naturalization laws, we should have as many different kinds of laws as we have states. This would lead to much confusion, abuse, and injustice. While the work of naturalizing a citizen belongs to the federal government, it does not necessarily follow that a state cannot, under its laws, extend certain privileges to the alien and permit him under specified conditions to vote even before he is naturalized. But such privileges cannot extend beyond the limits of the state granting this citizenship. Hence no state can make an alien a citizen of the United States; the national government alone having this power. But a state can extend to the alien such political and civil rights within its jurisdiction as are not contrary to the laws of the United States. This has frequently caused trouble through corrupt and lawless politicians using foreigners to carry elections when these aliens had no conception of citizenship whatever.

Steps Necessary to obtain Citizenship. — 1. An alien arrives in this country. Chinese, except as students and travelers, insane persons, paupers, polygamists, laborers under contract except skilled workers in a new industry, and people afflicted with contagious diseases are excluded from our shores; also, a minimum sum of money or amount of property is necessary before the alien is allowed to enter

our country. No people of the Mongolian race (Chinese or Japanese) can be naturalized.

2. At least two years before his final admission, the alien makes oath or affirmation before a circuit or district court of the United States, or a court of record of the state, setting forth that he is at least eighteen years of age, able to read his own language, and to read and speak English; further, he declares his intention to become a citizen of the United States and to renounce all allegiance to any other government. This declaration of intention, made at least two years before the applicant's final admission, is generally known as his first papers.

3. After not less than two nor more than seven years from the time he makes the above first declaration, and at least five years from the time he came to this country, the applicant for citizenship must appear before a court and declare on oath that he will support the Constitution of the United States and renounce all allegiance to any foreign government. If he has a title of nobility, he is required to renounce it also, as titles of nobility are not recognized in the United States. Upon the application for the final papers the court admitting the candidate must have positive evidence that he has resided in the United States for at least five years, that his conduct has been good, and that he has resided for at least one year in the state or territory where the court is held.

Condensed help. — One may forfeit citizenship by deserting from the military or naval service.

Under a law passed by Congress in 1882 and since modified and renewed, Chinese cannot become citizens.

An American woman who marries an alien is not entitled *to American* protection.

No alien can become naturalized at the time his country is at war with the United States.

Children born to United States citizens who are temporarily located in foreign countries, are citizens of the United States.

If an alien dies after he has declared his intention to become a citizen of the United States, his widow and children will become citizens on taking the oath of allegiance.

Generally speaking, all naturalized citizens receive the same protection from this country, when abroad, as do native-born citizens. Some exceptions exist, however; for example, in the case of those who return to their native country for permanent residence.

Children who are under twenty-one years of age at the time their parents are naturalized are entitled to the same privileges as those extended to children of native-born parents.

An alien who has served at least one year in the United States army, and received an honorable discharge therefrom, may become a citizen without a previous declaration of intention and after one year's residence, provided he has attained the age of twenty-one.

The natives of foreign territories become citizens when such territories are incorporated into our Union by treaty or by a special act of Congress. Nearly always an opportunity to leave within a time limit has been given to people living in territory annexed. Under this ruling whole communities have been naturalized at one time; as, for example, Texas which with all her people was admitted into the Union by a joint resolution of Congress. On the other hand, the people of Porto Rico are not yet citizens of the United States, Congress not having granted this privilege.

"An alien coming to this country when a minor who shall have resided in the United States three years next preceding his arrival at the age of twenty-one, and who shall have continued to reside therein to the time of his application, may, after he arrives at the age of twenty, and after he shall have resided five years in the United States, be admitted a citizen without the previous declaration. A woman who might lawfully be naturalized under the existing laws, married to a citizen, shall be deemed a citizen." — United States Statutes.

Bankruptcy. — Congress has the power to make uniform bankruptcy laws throughout the United States. Each state would have a limited right to pass laws regulating this question, provided the national government did not exercise its power. In fact, many states have passed insolvency laws at times when the national government had no bankruptcy laws. A person who is unable to pay his debts is said to be a bankrupt; and the law that distributes what property he may have among his creditors, and relieves him from the further payment of such debts, is a bankruptcy law. A debtor may voluntarily have himself declared a bankrupt, or upon demand of his creditors, under certain conditions, he can be declared a bankrupt without his consent.

Object of the Bankruptcy Law. — The bankruptcy law is intended to benefit creditors and debtors. It makes a just distribution of the property of the debtor among the creditors, and at the same time relieves a debtor from "hopeless insolvency," thus giving him an opportunity to engage in business again.

Several national bankruptcy laws have been passed, but the one of 1898 is the last, and is generally considered the best. Under it the United States district courts have

charge of bankruptcy cases. Any person owing more than $1000 may be forced into bankruptcy after a trial, or such person may go into voluntary bankruptcy before a referee appointed by the court and have his assets divided among his creditors. States also may have bankruptcy laws not in conflict with those of the national government.

Solvency and Insolvency. — Every man is either solvent or insolvent. It is held by some that no man is insolvent until he becomes a bankrupt, but it is generally held that all persons who can pay their debts are solvent and those who cannot pay their debts are insolvent. Every man's business falls under one of three conditions: his resources and liabilities are equal; or his resources are larger than his liabilities; or his liabilities are larger than his resources.

The Moral Obligation. — Under the bankruptcy law, a person secures a legal discharge from the payment of his debts, but this does not imply that he is morally relieved from further obligations to his creditors. The law relieves him from the burden of being an insolvent and gives him a chance to make another effort to succeed in his work and accumulate property. The man owes his debts as much as he ever did, and should pay them whenever it becomes possible for him to do so. Bankruptcy may be unavoidable or come about through mistaken judgment, but it generally carries with it suspicion and stigma. Hence bankruptcy is in a sense a test of a man's character.

Sec. 8, Clause 5. — *To coin money, regulate the value thereof, and of foreign coin, and fix the standard of weights and measures.*

Coinage of Money. — Exclusive power to coin money and to regulate its value and the value of foreign coin, is

given to Congress. Under the Articles of Confederation the several states had the power to coin money. If the central government did not have this exclusive privilege, there would perhaps be as many kinds of money as we have states. This condition would lead to frequent national crises and many wrongs. All nations regard the power to coin money as a right of sovereignty. Congress also has the power to " regulate the value of money " and of foreign coin. The subject of money is treated at greater length in Chapter X.

Condensed help. — Regulating the value of money refers to determining the ratio of one metal to another.

Regulating the value of foreign coin consists in " determining what amount of our money foreign coin shall represent."

Treasury notes, commonly called greenbacks, were made legal tender for any amount by the Act of 1862.

The Bureau of the Mint is controlled by the treasury department. A director is at the head of this bureau. Each mint has a superintendent, who reports to the head director. The leading mint is located at Philadelphia, with branch mints located at New Orleans, Carson City, and San Francisco. The government has assay offices at New York City, Denver, Seattle, Boise, and Charlotte, North Carolina. On coins, except those from the parent mint, at Philadelphia, letters are stamped to show where they were coined; for example, " C. C.," Carson City.

The Standardization of Weights and Measures. — But little has been done by Congress in the execution of its power to fix the standard of weights and measures, except to secure copies of English standards and adopt them in

the custom houses of this country, and " to pass a permanent statute for the use of the metric system throughout the United States." All the states have adopted the same standard of weights and measures used in the custom houses, thereby making a uniform standard throughout the country. The states have a right to regulate this matter, provided it is not done by Congress, but if Congress should at any time decide to adopt a uniform national system, all state laws in so far as they might be inconsistent with that national system would be null and void.

Sec. 8, Clause 6. — *To provide for the punishment of counterfeiting the securities and current coin of the United States.*

Counterfeiting. — Government bonds, treasury notes, and gold and silver certificates, are securities issued by the United States. Congress has the power to punish the counterfeiting of any of these securities or of current coin. To counterfeit is " to copy or imitate without authority or right, and with a view to deceive or defraud by passing the copy for the original or genuine." If the government did not have this power, spurious coin and securities would be freely circulated and people would be afraid to use money as a medium of exchange. In this way the whole system of trade and commerce would be disturbed, and a national calamity would result. This power of Congress does not preclude the states' privilege also to pass laws to punish the counterfeiting of securities and coin issued and circulated in the United States.

Not only persons who counterfeit coin and securities, but persons who put them into circulation or have them in their possession for the purpose of putting them into circulation, are guilty under the law and can be punished by

severe penalties. Congress also has the power to punish the counterfeiting of foreign securities.

Sec. 8, Clause 7. — *To establish post offices and post roads.*

The Postal Service. — A post office is the place where mail is received, stamped, transferred, delivered, and distributed; and a post road is the road on which the mail is carried. Under this clause of the Constitution, Congress has the power not only to "designate the places where post offices shall be kept, and the roads over which the mail shall be carried," but it gives Congress the power to build post offices, make contracts for the carrying of the mail, and when necessary, to open and build post roads and provide for all other features connected with the maintaining and operating of the postal service. The law defines as post roads, "all letter carrier routes in towns and cities, all railroads and canals, and all waters of the United States during the time the mail is carried thereon." Nearly the whole of the United States now has free rural delivery.

Prior to 1912, at the end of each year the postal department usually showed a large deficit. It is now self-sustaining and already cheaper postal rates are being advocated. Some conception of the tremendous sum of money required to keep up the postal department of our government may be gathered from the fact that in the fiscal year ending June 30, 1910, rural delivery cost $37,041,000, and city delivery, $31,737,000. Four classes of post offices exist. The postmasters of the first three classes are appointed by the President and confirmed by the Senate. Fourth-class postmasters who receive less than $1000 annual salary have been put under civil service regulations, and must now pass examinations. Towns having

a gross annual postal revenue of $10,000 have free delivery. There were about 59,300 post offices in the United States in 1910, not counting insular possessions. The Philippines had five hundred fifty-three, and Porto Rico eighty-one. The total postal receipts for the fiscal year ending June 30, 1910, were $224,126,657. New York city alone collected ten per cent of the total amount, and Chicago eight per cent. The total amount paid by the government to the railroads for handling the mail was $44,715,000; the amount paid to postmasters in salaries was $27,521,000. The total cost to the government to handle its postal business was $229,977,224.50. In 1914 the expenditures of this department were nearly $311,500,000. Over $647,000,000 in money orders were issued during 1910, and 14,000,000,000 pieces of mail were handled.

There is an international Postal Union in which the rates are fixed every five years. Under this arrangement the postage on letters to most foreign lands is five cents; letters between the United States and England or Germany may be sent for two cents.

Domestic Parcel Post. — For many years the United States has had treaties with foreign countries by which parcels weighing as much as eleven pounds might be sent through the mails to those countries for twelve cents a pound. After a long agitation for a domestic parcel post service, Congress passed a law installing such a system to take effect January 1, 1913. The country is divided into eight zones according to the distance from each post office. The first zone includes fifty miles, the second one hundred fifty miles, and so on. The rate of postage varies both with the weight and with the zone into which the parcel is sent. The weight of articles and the material which

may be sent, and all rules and regulations concerning the system are under the control of the postmaster-general. The maximum weight of a parcel which may be sent into the first and second zones is now (1914) fifty pounds; into any other zones it is twenty pounds. After one year's trial the domestic parcel post has proved very beneficial.

Sec. 8, Clause 8. — *To promote the progress of science and useful arts, by securing for limited times to authors and inventors the exclusive right to their respective writings and discoveries.*

Object. — The national government has the exclusive power to protect authors and inventors by issuing copyrights and patents. All of the great inventions and all of the best literature — in fact, every invention, book, map, chart, musical composition and engraving — at one time existed in the mind of man. The government recognizes the powers of the individual and "promotes the progress of science and useful arts" by giving to inventors and authors, as a reward for their labor and genius, an exclusive right, for a limited time, to reproduce the new creations. Many of the great inventions are worked out, and many of the great books are written, by poor men, who, if they were not protected by copyright and patent, could not afford to spend their time in such work.

Copyright. — A copyright gives the author of a book, chart, map, musical composition, engraving, painting, drawing, chromo, statue, and other productions of similar nature, the exclusive privilege of printing, publishing, and selling the same for a term of twenty-eight years. At the expiration of this time, the copyright may be renewed for another term of twenty-eight years.

Securing a Copyright. — To secure a copyright the author must publish the book, map, chart, painting, musical composition, engraving, cut, or photograph, with the copyright notice. As soon as possible after publication he must send to the Librarian of Congress, Washington, D.C., two copies of the work with an application for registration. The name of the claimant of the copyright must appear on the matter which it is desired to copyright.

The fee for the registration of any work, which includes a certificate of registration under seal, is one dollar.

Notice of the copyright must appear on the title page or on the page following. The following forms are used: Copyrighted, 19—, by ————; or, Entered according to an Act of Congress in the year ——, by ——— in the office of the Librarian of Congress at Washington, D.C.

International copyright relations have been established by the United States with a number of the leading nations of the world.

Patent Rights. — Letters patent are granted by the United States government to "inventors and discoverers of any new or useful art, machine, manufacture, or composition of matter, or any new and useful improvement on such, which had been previously unknown and had not been used by others, and which had not been on sale or in public use for more than two years prior to the application for a patent." Application for a patent is made to the Commissioner of Patents, Washington, D.C. A full description, together with such drawings of the invention as may be necessary, must accompany the application. Each patented article must be stamped "patented." A patent gives to an inventor the exclusive right to manufacture and sell his invention for a period of seventeen years. No

extension of this time can be made except by a special act of Congress. The Patent Office is under the control of the Interior Department and its activity shows the remarkable inventive genius of Americans. During a single year (1912) 37,731 patents were issued.

Sec. 8, Clause 9. — *To constitute tribunals inferior to the Supreme Court.*

The Supreme Court was provided for by the Constitution and organized by Congress. Inferior courts have also been organized by Congress. Each one will be considered under Article III.

Sec. 8, Clause 10. — *To define and punish piracies and felonies committed on the high seas, and offenses against the law of nations.*

Piracy and Felony. — Congress has the power to define and punish piracies and felonies. Piracy is robbery on the high seas. Under the law of nations the slave trade is not considered piracy, but Congress, under this clause, in 1820, declared it to be such. Felony generally means an aggravated offense like treason and murder. The term " high seas " refers to the oceans whose waters are common to all the nations of the world. A state or nation has jurisdiction over the sea extending about three miles from its coast line, or extending three miles from the low-water mark.

The law of nations is a code of rules based on the moral law and principles of natural justice. It governs nations in their relations to one another. The law of nations is being more and more extended and is becoming almost universal. Nations are being more and more guided by equity, and matters are settled by arbitration according *to well fixed* laws accepted as fair and just.

Sec. 8, Clause 11. — *To declare war, grant letters of marque and reprisal, and make rules concerning captures on land and water.*

Declaring War. — A declaration of war is a formal notice given by one nation of its determination to prosecute a war against another. War may exist without a declaration, but in modern times sentiment is against such a proceeding. In the Japanese-Russian war Russia complained bitterly of Japan's opening hostilities without giving formal notice. In monarchies the power to declare war belongs to the crown, but it is rarely exercised. In every country in Europe the legislative assemblies now have a voice in taxation and raising funds, hence the rulers are virtually compelled to consult them on such an important matter as the declaration of war. There have been three formal declarations of war or statements declaring war to be in existence made by the United States: against England in 1812; against Mexico in 1846; and against Spain in 1898. Congress very properly has the right to declare war, but its prosecution falls heavily on the President, to whom great implied powers in the time of war are given by the Constitution. As chief executive and commander-in-chief of the army and navy, the President is held largely responsible for the progress and outcome of a war.

Letters of Marque and Reprisal. — Marque signifies boundary. Letters of marque and reprisal are commissions issued to private persons permitting them to go beyond the limit of the country and take the subjects or property of the subjects of another nation in retaliation for some injury committed by that nation. Reprisal means a retaking. This indicates the reason for issuing the commission. Vessels having in their possession these commissions are called privateers. The custom of issuing letters of

marque and reprisal was formerly common, but in recent years it is looked upon as a disreputable procedure; in fact, nothing more than legalized piracy. The idea of striking at private commerce on the sea to bring a nation to terms has all but passed. There is coming to be an international sentiment that private commerce, other than contraband, should not be attacked, and also that an enemy's goods under a neutral flag must be unmolested. This idea, enacted into international law, would stop all privateering. In the Congress of Paris in 1856, the leading European powers agreed to stop privateering. Our government, though not a party to the agreement, followed its provisions in our late war with Spain. This precedent will probably be followed by the government of the United States and other countries in the future.

Sec. 8, Clause 12. — *To raise and support armies; but no appropriation of money to that use shall be for a longer term than two years.*

Raising and Supporting Armies. — Under the Articles of Confederation Congress could declare war but it had no power to raise and support armies. It could demand the maintenance of a militia by each state for common defense, but it had no power to enforce its own action. The feeling was thoroughly established in the minds of the great statesmen during the Revolutionary War that this system was not only inadequate but dangerous. The constitutional convention accordingly had no hesitation in giving Congress power to raise and support armies, though afterward this provision was severely criticized by the states when the Constitution was submitted to them for ratification.

Maintaining Armies. — The right to declare war is one of national sovereignty. The constitutional convention recognized this fact in placing a restriction on Congress by declaring that an appropriation of money for this purpose should not be for a longer term than two years. This restriction practically places the standing army in the control of the people, for each new Congress is required to vote upon a bill authorizing a standing army and its support. It is now the custom for Congress to vote on this question annually. If one Congress should refuse to make the necessary appropriation, the army would be forced to disband. Under the two year restriction, the people have the power to regulate the size of the standing army and the number of military offices. This idea of control of the army doubtless came from the English Mutiny Act, which limited the crown's influence with the army. Regularly the army appropriation is made annually; but in 1863 it was made for two years. Prior to 1898 we had a standing army of only 27,000 men. Since 1901 the minimum has been 57,000, the maximum 100,000, and small though this number is when compared with even the smaller European states, it appears to be adequate.

Sec. 8, Clause 13. — *To provide and maintain a navy.*

The Navy. — Our immense sea coast, dotted with many of our greatest cities, makes it necessary for this government to have a strong and well equipped navy disciplined and manned by trained men. It can also easily be seen that with our insular possessions to defend and the Panama Canal to guard, we should be in danger were we to become involved in a foreign war. No limit was put on providing money for the navy. After the War of 1812 our navy

deteriorated, to be greatly increased during the Civil War, which brought forth ironclad vessels and revolutionized maritime warfare. At present, in time of peace, the nations are taxing their people for increased armaments, and no end is in sight unless it is achieved by international agreement. The recent development of submarine and aërial craft bids fair to make enormous vessels practically useless. For the support of the army and navy, Congress appropriated for 1913–1914 over $235,000,000. Two battleships of the modern type required an appropriation of $32,000,000. Our naval rank in 1914 was third among the nations, with thirty-six battleships in commission or under construction.

Sec. 8, Clause 14. — *To make rules for the government and regulation of the land and naval forces.*

The Military Law. — Under this clause Congress has prescribed a code of rules known as the "military law" for the discipline, government, and regulation of the army and navy. Members of the army and navy who violate their respective codes, are tried by a court martial, and punished according to the law. For capital punishment and in a few other cases, the approval of the President is necessary.

Sec. 8, Clause 15. — *To provide for calling forth the militia to execute the laws of the Union, suppress insurrections, and repel invasions.*

The Militia. — Besides the standing army, the defense of the country is provided for by the militia. Congress has declared that "all citizens, and those who have declared their intention to become such, between the ages of eighteen

and forty-five," compose the militia of the United States. If Congress did not have power to call on the citizens in time of war, it would be necessary to have a larger standing army. Americans are intensely patriotic, and the unorganized and organized militia can always be relied upon to respond to the national call to execute the laws, suppress insurrections, and repel invasions. Congress has given the President the power to call out the militia in certain emergencies. The national guard constitutes the organized part of the militia. This portion of the militia is equipped, drilled, and officered by the states according to rules prescribed by Congress. The Spanish-American war found it poorly organized and equipped. In 1903 it was reorganized and strengthened under an act of Congress providing for closer coöperation between state and national military authorities and is known as the National Guard. When the militia is needed, the President makes the call through the governors of the states. The militia was called out during the Whisky Rebellion, the War of 1812, the Mexican War, and the Civil War. Militiamen were also enrolled as volunteers during the Spanish War, and to suppress the Philippine insurrection.

Sec. 8, Clause 16. — *To provide for organizing, arming and disciplining the militia, and for governing such part of them as may be employed in the service of the United States, reserving to the states respectively the appointment of the officers, and the authority of training the militia according to the discipline prescribed by Congress.*

Rights reserved to States. — It will be observed that while this clause imposes upon the national government certain duties, it at the same time recognizes important

rights that belong to the states. Congress prescribes uniform rules for the training of the militia, but reserves " to the states respectively the appointment of the officers and the authority of training the militia."

Sec. 8, Clause 17. — *To exercise exclusive legislation in all cases whatsoever over such district (not exceeding ten miles square) as may, by cession of particular states and the acceptance of Congress, become the seat of government of the United States, and to exercise like authority over all places purchased by the consent of the Legislature of the state in which the same shall be, for the erection of forts, magazines, arsenals, dockyards, and other needful buildings.*

Government of the District of Columbia. — On one occasion during the Confederation, when the Congress was in session in Philadelphia in 1783, it was surrounded by a mob of mutineers from the American army. Unable to protect itself, it was subjected to insults, and, as the civil authority of the state of Pennsylvania offered no protection, it was forced to go to Princeton, New Jersey, in order to escape violence. Many of the members of this Congress were afterward members of the constitutional convention. Citing their experience of 1783, they had no trouble in convincing the majority of the members of the convention that the United States should have absolute control over its seat of government, in order to guard against any future embarrassment and danger that might arise from any source. This clause gives the government also an opportunity to protect its public buildings, archives, and other property and interests.

Federal Territory. — The territory now occupied by the District of Columbia was ceded by Maryland to the United States. Virginia also ceded territory, the two states *combined giving* one hundred square miles. But that

part of the territory ceded by Virginia was returned to Virginia nearly sixty years afterward by an act of Congress. The present District of Columbia contains less than seventy square miles. The location of the federal capital on the Potomac was accomplished by the passage of a bill through the influence of Thomas Jefferson and Alexander Hamilton.

Present Government of the District. — The District of Columbia is neither a state nor a territory. It is not governed by the people of the District of Columbia, but by Congress. Its government was vested, by an act of Congress approved June 11, 1878, in three commissioners appointed by the President with the consent of the Senate. Two of these commissioners must be citizens of the District who have had three years' residence therein immediately preceding their appointment. The other commissioner is selected from the corps of engineers of the United States army. Congress is the legislative body of the District of Columbia. However, it has intrusted to the commissioners authority to make police regulations, building regulations, plumbing regulations, and other regulations of a municipal nature. Each house of Congress has a committee on the District of Columbia which prepares measures for its government.

Suffrage and Taxation. — The inhabitants of the District of Columbia have no political rights. They have no right to vote. The federal government pays one half of the expenses of the local government, the property owners of the District the other half.

Sec. 8, Clause 18. — *To make all laws which shall be necessary and proper for carrying into execution the foregoing powers, and all other powers vested by this Constitution in the government of the United States or in any department or office thereof.*

Implied Powers. — This clause does not grant any new power. The earnest student of government has already noticed that there is only an enumeration of powers of Congress in the Constitution, and no definitions. This clause has given rise to what are known as "implied powers." The Constitution says: "Congress has the power to borrow money on the credit of the United States," but it does not say that Congress has the power to issue bonds or other evidences of debt. This power, however, is implied and is necessary in order to carry into execution the expressed powers of Congress. Mr. McCreary, in his book on "Studies in Civics," speaking of the implied powers of the Constitution, says: "Congress has the power to declare war. By implication it has power to prosecute war by all legitimate methods known to international law. To that end it may confiscate the property of public enemies, foreign or domestic; it may confiscate, therefore, their slaves." Congress would have great difficulty in putting into execution the directly specified powers of Congress without the exercise of the implied powers. Story says that this clause "neither enlarges any power specifically granted; nor is it a grant of any new power to Congress. But it is merely a declaration for the removal of all uncertainty that the means of carrying into execution those, otherwise granted, are included in the grant. Whenever, therefore, a question arises concerning the constitutionality of a particular power, the first question is, whether the power be *expressed* in the Constitution. If it be, the question is decided. If it be not *expressed*, the next inquiry must be, whether it is properly an incident to an express power and necessary and proper to its execution. If it be, then it may be exercised by Congress. If not, Congress cannot exercise it."

"The Elastic Clause." — Section 8, Clause 18 is frequently called the "elastic" or "sweeping" clause, since from the time of the first United States bank controversy, the question under this clause has been "what is really necessary?" Does the clause mean what is "necessary and expedient"? Since Jefferson's time the Democratic party has generally stood for a strict construction and interpretation of the Constitution, while the Federalist, Whig, and present Republican party have leaned more toward loose and implied construction. All of these parties when in power have held liberal views on federal powers and used them freely, while all of them when out of office have tended to be critical and strict in their views.

Without having the limits of the federal government defined, the "elastic clause" may become dangerous if too liberally and loosely interpreted. On the other hand, its narrow interpretation would so cripple the national powers as to render the nation helpless in great emergencies.

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SUGGESTIVE QUESTIONS

1. Why was Congress, and not the states, given the power to lay and collect taxes?

2. What is citizenship? Why has the federal government charge of naturalization?

3. Name the steps in the making of a citizen.

4. What is bankruptcy? Does becoming a bankrupt free a debtor? How is bankruptcy a test of character?

5. Why put the coinage of money under the federal government?

6. Why must good money be closely guarded against counterfeiting?

7. What is a post road? Distribution of post offices? How does the immensity of the post office business reflect on the character and intelligence of our citizenship?

8. Why grant copyrights and patents? How are they obtained?

9. Why allow only Congress to declare war? What are letters of marque and reprisal? Why have nearly all nations stopped privateering?

10. Why is money voted the army only for two years at a time? Is our army too large? Why?

11. Why have a large navy? Does the Monroe Doctrine affect the size of the American navy? How?

12. Why does the federal government control the militia? What rights have the states with the militia?

13. Discuss the government of the District of Columbia.

14. What is meant by implied powers? State the "elastic clause." How is it useful? How may it be abused?

QUESTIONS FOR DEBATE

Resolved, That we should have penny postage.

Resolved, That the United States should maintain a larger standing army.

CHAPTER IX

FEDERAL CONTROL OF TAXATION AND COMMERCE

THE Constitution has the following specific references on Taxation: —

Article 1, Section 2, Clause 3. — *Representative and direct taxes shall be apportioned among the several States . . . according to their respective numbers. . . .*

Article I, Section 7, Clause 1. — *All bills for raising revenue shall originate in the House of Representatives; but the Senate may propose or concur with amendments as in other bills.*

Article I, Section 8, Clause 1. — *The Congress shall have power to levy and collect taxes, duties, imposts and excises — but all duties, imposts and excises shall be uniform throughout the United States.*

Article I, Section 9, Clause 4. — *No capitation or other direct tax shall be laid unless in proportion to the census or enumeration herein before directed to be taken.*[1]

Article I, Section 9, Clause 5. — *No tax or duty shall be laid on articles exported from any State.*

The Weakness of the Tax System under the Confederation. — The raising of taxes has been a serious problem with all nations in all times. As has been stated, the supreme test of a government is to lay taxes equitably and collect them without serious opposition. This the United States did not do well under the Articles of Confederation, and the problem of taxation had much to do with the overthrow

[1] This clause has been set aside by Amendment XVI, so far as income taxes are concerned.

of those Articles. Requisitions could be, and were, freely made, but the states responded only when it was convenient. By means of tariff duties some states taxed the commerce of other states, and soon a condition of unfairness, turmoil, and ill-feeling prevailed everywhere.

The Nation given Power to levy Taxes. — In order to provide a fairer tax system, obtain proper support, and endow the national government with power and dignity, the Constitution made in 1787 gave the government the right to levy all taxes for its maintenance. Direct taxes were to be apportioned among the several states according to population; duties, imposts, and excises must be uniform over all the land. No duty or tax may be laid on articles exported from any state. By a decision of the Supreme Court it is optional with Congress whether it shall extend its powers to levy and collect taxes over the territories and the District of Columbia.[1]

Right Taxing Principles. — Devising an equitable tax system demands the best intelligence of every nation. No system ever devised has proved wholly satisfactory. Tariffs, excises, taxes on incomes, a per cent on individual expenditures, a levy on rents, and other items are employed by various nations for maintenance, and in all countries there is complaint. A national tax system to be fair ought to be uniform and equitable, so as to compel everybody to contribute according to his ability to pay. The tax should be universal and should reach everything designated to be taxed with every effort for fairness to the contributors. The tax system of a nation should provide for a cheap and convenient way of collecting the revenues and be such a system as would not lead to deception, falsehood, and fraud

[1] Longborough *vs.* Blake, 5 Wheaton, 317.

on the part of the persons assessed. Above all, the system should not allow the absolute necessities of life to be heavily taxed, nor any one to profit unfairly from the taxes.

Annual Expense of the Government. — It will be of interest to know what our federal government costs annually. The total ordinary receipts of the government for the fiscal year, ending June 30, 1913, were $724,111,230; the total ordinary expenditures for the same time were $682,770,706. The public debt less the cash in the treasury for the date given totals $1,050,000,000, which is about one third that of Great Britain, and considerably less than that of Germany. The cost of maintenance for the government is constantly increasing as new demands are made with the new conditions to be met.

Raising Revenue. — Under the Constitution we have direct and indirect taxes. By direct taxes is generally meant those paid directly by persons assessed, like a poll tax or a tax on real estate; while by indirect taxes is meant those paid to the government by persons who shift the burden to others, in reality collecting the tax from the latter, as is the case with the tariff and excise duties. The greatest part of our federal revenue is raised by the excise and tariff duties, since our people prefer to pay taxes indirectly a little at a time on things used by them, even if such extra payments may amount to a far greater sum than would be necessary in direct taxes for the maintenance of the federal government. Only five times has the United States used the direct tax levy, the last time being in 1861.

Kinds of Duties. — There are two kinds of tariff duties: specific and ad valorem. Specific duties are fixed on articles by weight, number, or measure; for example, $12 duty a dozen on men's hats; ad valorem taxes are levied at a fixed

legal rate on the value of the goods; for example, if the duty is fifty per cent on men's hats, and they are worth $24 a dozen, then the ad valorem duty will amount to $12. On some articles both duties are levied under our tariff laws, but on most things only one kind of duty is laid. Ad valorem duties are the fairer on the whole, since they rise and fall with the value of the commodity; but they are more difficult to collect than the specific. Goods bought abroad are invoiced and priced, and a copy of the invoice is given the United States consul nearest to the place of purchase. The consul sends a copy of this to the customs official where the goods are to be landed. When the cargo arrives at the American port, the officials must see to it that the goods are as reported to the consul, must determine by the law the amount of tax due, and must collect the duty. The importers may be punished for undervaluation and deception. Importers who may not want to sell their goods soon after arrival, may put them in bond for a period not to exceed three years, after which they must pay the duties or remove the goods. The largest port of entry in America is New York city. Two thirds of the whole foreign commerce of the United States comes through the custom house there, and over five thousand officials help to collect the customs at that port. In any system of revenue collection, fraud and smuggling frequently develop among both importers and travelers. Cases of fraud in duty collections where officials have connived with importers have occurred at times, while smuggling on the part of travelers is a matter of frequent occurrence.

The Underwood Tariff. — The Underwood Tariff Act *became a law in* October, 1913. Its duties are so largely

levied upon the value of commodities, that it may almost be called an ad valorem tariff. The act is arranged into schedules from the letters A to N inclusive; for example, Schedule K — Wool and Manufactures Of. The average rate of the new tariff duties as stated by its author will be about twenty-seven per cent, while the Payne-Aldrich Act, which it succeeded, averaged over forty per cent. While not framed with the idea of revenue only, the new tariff is a decided step in revision downward, and contains the largest free list in important commodities of all the tariff bills ever passed in the United States. Compared with the Payne-Aldrich law, the new law shows about 940 reductions of duty, 85 increases, and about 300 rates unchanged. Nearly two thirds of the increases fall in Schedule A and deal with chemicals — mostly with chemicals used in making perfumery. The new law introduces the principle of a competitive tariff, intended to enable the domestic producer to compete on an even basis with the foreign producer.

The Excise. — Internal duties, or excises, are levied on the manufacture and sale of various specified articles, principally whisky, beer, tobacco, opium, and oleomargarine. The United States is divided into revenue districts, each under the charge of a collector of internal revenue, an appointee of the treasury department. Under him are many subordinates who carry out the inspection necessary to see that articles are duly stamped and the taxes paid. During the fiscal year ending June 30, 1913, the total internal revenue raised was $344,424,453, an increase from 1912 of over $23,800,000.

The Corporation Tax. — In the Payne-Aldrich tariff act of 1909 there was a provision that every corporation, joint

stock company, or association organized for profit and having a capital stock, and insurance companies organized under the laws of the United States, should pay annually a special excise tax of one per cent upon their net income over and above $5000. Many objections were urged against this act, the chief of which was that it encroached on a source of revenue due the states, and, as some of the states have corporation laws, it put an undue burden on corporations already heavily taxed by such states. Also, it was opposed by many corporations because it disclosed their private affairs, which they maintained might result in great injustice. Nearly $27,000,000 was raised the first year from 262,490 taxable corporations, whose net income was $3,125,481,101. The law was contested vigorously in the Supreme Court, but in 1911 was held to be constitutional.

The corporation tax act of 1909 was repealed by the passage of the income tax law of 1913 except in so far as it related to the collection of taxes already accrued. However, the essential features of the corporation act were embodied into the income tax measure. Every domestic corporation, joint stock company or association, insurance company, and every foreign corporation having capital invested and transacting business in the United States, must pay one per cent per annum of the "entire net income arising or accruing from all sources." From the gross incomes of corporations there are reasonable deductions allowed for ordinary and necessary expenses paid for operation, for maintenance, for actual losses, and for rentals. Returns of corporations computing the tax must be rendered annually on or before March first; they are to be notified *of the amount* for which they are liable on or before June

first; and on or before June thirtieth, the assessment must be paid to the collectors.

The Income Tax. — Income taxes are those levied on wages, salaries, or profits in business. Usually a certain amount of income is exempted from the tax. The theory is that persons whose incomes exceed a specified limit can better afford to pay the government a tax on the excess, since they get more value received from the government than people whose incomes are less than the limit specified. During the Civil War Congress passed a law taxing incomes as large as $600, but this law was repealed in 1872. The Supreme Court decided that it was an *indirect tax*, and therefore constitutional. In 1894 a two per cent tax on all incomes over $4000 was provided as a part of the Wilson tariff bill. In 1895 the Supreme Court decided that such a *tax is direct*, and that it must therefore be apportioned among the states as provided for in the Constitution for direct taxes. In 1913, Amendment XVI, allowing Congress to lay and collect taxes on incomes regardless of state apportionment, became a part of the Constitution. A new income tax law was passed in October, 1913, in connection with the Underwood Tariff Act. It levies taxes on incomes of single persons amounting to more than $3000 annually, and of married persons amounting to more than $4000. The tax is one per cent upon the excess over those amounts up to $20,000; two per cent upon incomes in excess of $20,000 up to $50,000; three per cent upon incomes in excess of $50,000 up to $75,000; four per cent upon incomes in excess of $75,000 up to $100,000; five per cent on incomes in excess of $100,000 up to $250,000; six per cent on incomes in excess of $250,000 up to $500,000; and seven per cent on all sums exceeding $500,000. Rules and regula-

tions for the collecting of the income tax are under the direction of the secretary of the treasury. A lowering of customs duties and the placing of many articles on the free list will probably reduce the government's income from the tariff. To make up the deficiency, it is expected that the income and corporation taxes will produce about $70,000,000 revenue for 1914. The income tax law is complex, but after experience has tested it and the rulings of courts have interpreted the more complicated provisions, it will no doubt become a satisfactory and permanent part of our national revenue laws.

Commerce. — Trade, particularly interstate trade, more than anything else caused constant trouble to the federal government under the old Confederation. The meetings at Alexandria and Annapolis which were preliminary to the constitutional convention at Philadelphia, grew out of these interstate commercial quarrels. The Constitution has the following references to commerce:

Article I, Section 8, Clause 3. — *The Congress shall have power to regulate commerce with foreign nations, and among the several States and with the Indian tribes.*

Article I, Section 9, Clause 5. — *No tax or duty shall be laid on articles exported from any State.*

Article I, Section 9, Clause 6. — *No preference shall be given by any regulation of commerce or revenue to the ports of one State over those of another; nor shall vessels bound to or from one State be obliged to enter, clear, or pay duties in another.*

Regulation of Foreign Commerce. — The power to regulate foreign commerce is almost absolute in Congress, except that it must not be partial to one port over another, or lay a tax or duty on articles exported from any state. Congress may prohibit commerce entirely, or refuse to

allow trade with certain countries. By statute, Congress has prescribed rules for vessels engaged in foreign commerce. Ships are registered, and thereby get the protection of our government the world over. Until 1914, only American-built vessels or foreign vessels purchased within five years after they were built could be registered, and then only if owned by Americans. Tonnage duties are levied alike on American and on foreign vessels, but no foreign ships may engage in the coast trade of the United States.

The nation has had, from its beginning, a tariff on some articles, and until recently the elections have usually indorsed the high protection principle. Year by year, for the last two decades, we have gradually fallen off in the exporting of foodstuffs, and should the present rate of decrease continue, and the forms of production and the amount produced be relatively the same, and the rate of increase of our population remain the same, we shall almost entirely cease exporting foodstuffs in another decade; on the other hand, our exportations of partly manufactured articles and finished products have heavily increased — from $496,000,000 in 1900 to $827,000,000 in 1910. With the increase of manufactures and the change in the character of our exports, there has come a change in the opinion of many in regard to protective tariffs — as evidenced by the recent changes in the revenue laws.

Interstate Trade. — Congress may control all interstate commerce. It is sometimes a difficult question to determine what is interstate and what state commerce. The power of the state is complete over commerce wholly within its own limits. However, to-day most commerce is interstate, since carriers by land and water are generally for the most part engaged in interstate traffic. So are also the

many large corporations doing business. The question of regulating railroads and freight rates at once arises in considering interstate trade. Railroad consolidation has gone on until, in many instances, competition has been destroyed. Exorbitant rates have been charged, and unfair discriminations have been made against certain parties, generally smaller concerns, and against certain places, while favoritism in rates, and in the number of cars furnished, has been shown large shippers to the detriment of the smaller competitors.

Interstate Commerce Commission. — On February 4, 1887, the first law was passed by Congress to regulate railroads and to prevent unjust passenger and freight rates and unfair discrimination. To enforce this law an interstate commerce commission was created, consisting of five persons appointed by the President and confirmed by the Senate. This commission was given power to supervise railroads, stop rebates, and give publicity to rates which could not be lowered or raised without notice. The railroads feared the power of the commission and attacked the law. Even with amendments, the commission could do but little to enforce this law prior to 1906, as its principal features had been eliminated by adverse court decisions. The commission had given, however, a great deal of publicity to the methods of business practiced by the so-called common carriers, such as railroads and steamships, and thus educated the public. In 1906 Congress passed the Hepburn Act, which increased the commission to seven members, included sleeping cars, pipe lines, and express companies within its jurisdiction, and empowered it to fix "just and reasonable rates." The United States courts could interfere with the work of the commission only when *it exceeded* its powers.

The Hepburn Act provided heavy penalties for violations of the act, and some railroad companies did not like it. When the panic came on in 1907 the railroads laid the cause to this act, but this could not be proved. The contrary now seems true. In June, 1910, the Mann-Elkins law was passed still further strengthening the powers of the commission over common carriers. Telegraph, telephone, and cable companies were made subject to its orders. It ought really to have control of through freight rates on imports to be able to do full justice. The burden of proof is now upon the carriers of commerce, and the commission may investigate on its own initiative. That the commission has become a real factor in regulating rates is shown by its success in compelling certain railroads to lower the price of upper Pullman berths, in preventing a decided increase in freight rates early in 1911 and in 1914 by a large number of trunk lines, and in compelling express companies in 1914 to lower their rates to about four fifths of their former charges. Congress has recently required railroads engaged in interstate commerce to equip their cars with all the best known safety appliances, has passed an employers' liability act, and an act forbidding the shipment of intoxicating liquor from any state or territory in the United States, or from any foreign country, into any other state or territory, either in original packages or otherwise, if such shipment is in violation of law in such state or territory.

United States Board of Mediation and Conciliation. — The Erdman Act of 1898, which related to the settlement of labor controversies on railroads, was repealed in July, 1913. Instead there is established a federal board of mediation and conciliation. This board consists of a commis-

sioner of mediation and conciliation whose term is seven years, at a salary of $7500 a year; an assistant commissioner at $5000 per annum, and not more than two other government officials, all to be appointed by the President and confirmed by the Senate. The duty of this board is to endeavor to reach an agreement amicably, in any controversy over wages, hours, or conditions of employment, arising between any interstate railroad and its employees. Should the board fail in getting an adjustment, its duty then is to induce the parties to submit the controversy to arbitration.

Trust Regulation. — Sharp competition, and the desire to economize in expenditures of management, led to gigantic business corporations. The term "trust" is difficult to define, but in general it means a union of corporations mutually interested in avoiding competition and in economizing effort. It obtains its charter from some state, operates wherever it pleases, unless it is shut out by state law, and is beneficial or a detriment to the community, according to whether it does or does not have a monopoly of the sale of any commodity. In 1890 came the first anti-trust law, properly known as the Sherman Antitrust Act. The Supreme Court soon held that this act related to railroads as well as to other industrial corporations which are in restraint of trade among the states or with foreign nations. The government's greatest victory was in the prevention of the plans of the Northern Securities Company to unite and consolidate two competing railroads, the Northern Pacific and the Great Northern. The government has also won in cases like the prosecution of the Tobacco Trust, and Standard Oil cases. The Supreme Court dissolved these gigantic corporations and ordered them to

separate into the different companies and corporations which had been integrated and absorbed. The purpose of the government is to reëstablish competition. Many other trusts have voluntarily dissolved since the Supreme Court decision against their legality. The political and economic effects of these decisions are problems yet to be determined. The sixty-third Congress is now (1914) at work upon a number of trust regulation bills.

Commercial Tendencies. — There has been an awakening of public conscience against unfair treatment in trade. Practices formerly tolerated are no longer allowed. Public corporations, such as railroads and those that are quasi-public, are slowly but surely learning that the public upon which they depend for the earning of dividends is entitled to consideration and fair treatment. Fairer business standards prevail, and if public sentiment can keep these advancing, and government officials are true to their trust and enforce the laws, a new commercial era will result.

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SUGGESTIVE QUESTIONS

1. Why was the nation given the taxing power?
2. What are right and wrong taxing principles?
3. What is about the annual expense of the national government?
4. Kinds of duties? How levied? How collected?
5. What is meant by the free list? Name some articles that are taxed and some that are on the free list.
6. Define excise. How collected?
7. Define the corporation tax. The income tax.
8. Why is the matter of raising revenue so hard a problem?
9. How is foreign commerce regulated? Why is the exportation of foodstuffs rapidly declining?
10. What is interstate trade? What is a common carrier?
11. What is the nature and purpose of the interstate commerce commission?
12. Define a trust. What is the Sherman anti-trust law?
13. Should a monopoly ever exist? Why?

QUESTIONS FOR DEBATE

Resolved, That the American merchant marine should be built up by an annual subsidy.

Resolved, That direct taxation is a better method of raising revenue than a tariff.

CHAPTER X

FEDERAL CONTROL OF MONEY AND BANKS

EXCEPTING taxation and commerce, no other subject in the life of the American people has caused as much discussion and thought, often more discussion than thought, as money and banking. On account of its great importance, a separate chapter is devoted to it in addition to the brief space already given it. The Constitution has the following references to money: —

Article I, Section 8, Clause 2. — *The Congress shall have power . . . to borrow money on the credit of the United States.*

Article I, Section 8, Clause 5. — *To coin money, regulate the value thereof, and of foreign coin.*

Article I, Sec. 8, Clause 6. — *To provide for the punishment of counterfeiting the securities and current coin of the United States.*

Article I, Section 10, Clause 1. — *No State shall . . . coin money, emit bills of credit, or make anything but gold and silver coin a tender in payment of debts.*

Money before the Constitution. — Money is anything that measures values, serves as a medium of exchange, and is a tender in payment of debts. Pioneers use things most convenient to them for neighborhood trade. In early colonial days, the American pioneers were no exception to this rule, so we find barter and trading among them, and between them and the Indians. In Virginia and Maryland for more than two centuries tobacco passed as currency. It sold in England readily, and hence was generally

accepted. It was, however, a poor currency, since it fluctuated greatly in value from year to year as the crop was large or small. Wampum and furs were commonly used in New England. Nothing else, however, is so desirable for a medium of exchange as metals, and they have always been used whenever obtainable. Metal money was in use from the beginning of colonial life where there was foreign commerce. In 1652 Massachusetts set up a mint, and coined pinetree shillings, which were made less valuable than the English shilling, so that they would stay in America. The money most used in colonial time was the Spanish silver dollar and its fractions, the dollar being rated at 100 cents and the New England shilling at $16\frac{2}{3}$ cents, one sixth of a dollar. Other colonies put different values upon the different coins, and often they were shamefully clipped. In 1704, by England's royal proclamation, Spanish money was to be accepted in the colonies at a definite value, the dollar, for instance, being listed at only six shillings. Some paper money was issued by the colonies before the Revolution, much was issued by the Continental Congress during that war, and much was issued by the states during the so-called Critical Period of our history from 1783–87. Under authority of the state government, a little metal money was coined before the Constitution. In 1785, the Spanish dollar was declared the money unit of the country, and the decimal ratio was established. It was this mixed and unsatisfactory condition of colonial finances existing at the time of the Constitution that caused the framers to vest the sole right of coining money in the federal government.

The Borrowing Power. — Every government must have the power to borrow money, as in cases of emergency or

extraordinary expense this power might save the life of the nation. The ability to borrow depends on the general standing of a nation, on its resources, and on its reputation for meeting its obligations. Congress holds this power of borrowing for the nation under the Constitution, and ordinarily secures its loans in the following ways: First, by selling bonds, which are the government's promises to pay definite sums at definite times, at a specified rate of interest. For example, the bonds issued in 1898 for the expense of the Spanish-American war were 10/20's; that is, they were payable at the option of the government after ten years, but payment was not due for twenty years. They bore three per cent interest. Second, Congress borrows by issuing treasury notes, sometimes called bills of credit. Some of these bear interest, but most do not; some are payable to order, some to bearer; some are legal tender, some are not. In 1862, Congress authorized various issues of treasury notes, usually called greenbacks. In actual fact they were forced loans, since they represented promises of the government to pay for property bought or loans made, and bear no interest. These notes, about $346,000,000, are now, since 1900, redeemable in gold, and a gold reserve of $150,000,000 is set aside in the treasury for their redemption.

Coining and Regulating the Value of Money. — Congress, having been given the power to coin money and regulate its value, passed the first coinage law in 1792. This act provided for the free coinage of gold and silver. As to the regulating of the value of money all Congress could do was to determine the relative value of gold and silver. Under the act of 1792, the ratio was 15 to 1; that is, fifteen ounces of silver were coined into as many dollars as one ounce of gold. A gold dollar at first contained 24$\frac{3}{4}$ grains

of pure metal, and the silver dollar 371¼ grains. Gold or silver bullion is assayed and its purity determined. The pure metal is too soft for long wear, so one tenth alloy is added; hence our coins are nine tenths fine. Gold and silver have been legal tender since the origin of the government, although, as will be seen, the ratio in the value has changed from time to time. Legal tender is money which a creditor must accept in payment of a debt. By free coinage is meant that the government charges nothing for coining gold or silver into the coin of the nation. The owner gets ounce for ounce of his metal.

It was soon found impossible to keep gold and silver at the established ratio. In 1834, it was found that gold was worth more than 15 to 1, almost 16 to 1 in silver. A principle known as Gresham's law, which is that cheaper money drives dearer money out or into hiding, was found to be in operation then; people were using silver in making purchases and paying debts, while gold was hoarded or sent abroad, where it was higher. To check this, Congress reduced the size of the gold dollar to 23.22 grains of pure metal, and let the silver dollar remain at 371.25 grains of pure silver. The ratio was now nearly 16 to 1. Soon came immense quantities of gold from Australia and California. Now Gresham's law came into operation again; but as gold was now cheaper at the government ratio, this time silver was driven from circulation. Little silver was coined from 1837 to 1873, except in minor coins less than one dollar. This was due to the increased relative value of silver, and an act was passed in 1853 which virtually left the silver dollar only nominally a part of the coinage parity and circulating money of the nation. In 1873, gold was *declared the* unit of value and silver was demonetized.

This has been sometimes styled the "Crime of 1873." Demonetization of silver was, however, the natural result of conditions at that time. For many years practically no silver dollars had been in circulation, for the silver in a dollar was worth, as metal, more than a dollar. Many European countries had by 1873 adopted gold as the single standard.

The Bland-Allison Act of 1878. — Soon after 1873, however, there was an increased production of silver, and the value of that metal declined. The demand for the restoration of free coinage of silver became strong in 1876, and a free coinage act, offered by Mr. Bland, of Missouri, was passed by the House of Representatives. The Senate, under the leadership of Mr. Allison of Iowa, amended the House bill so that the government had to buy not less than two million dollars' worth, nor over four million dollars' worth of silver bullion each month, and coin it into silver dollars to be full legal tender. President Hayes vetoed the bill as a dangerous inflation act, but it passed over his veto, and was in force twelve years, and under it $378,166,793 in silver were coined. However, only $57,000,000 of this went into circulation as silver dollars, the remainder circulating in the form of silver certificates issued to represent silver deposited in the treasury. The disparity of the metals was not removed by this legislation, although silver did rise somewhat in value.

The Sherman Act of 1890. — In 1890, a free coinage act was passed by the Senate. The House refused to accept the bill, and the result of a compromise was the Sherman Act. It provided that the secretary of the treasury should buy 4,500,000 ounces of silver bullion each month at the market value, and pay for it with treasury notes which

were to be legal tender in payment of all debts, public or private, unless otherwise stipulated in contracts. These notes could be redeemed by the secretary of the treasury in gold, and he was to keep silver and gold on a parity with each other at the legal ratio. One hundred and sixty-eight million ounces of silver were bought under this act, $36,000,000 were coined into dollars, and $156,000,000 in treasury notes were issued. Silver rose for a time, then dropped; gold went abroad heavily. In 1893, India demonetized silver, which fell from 82 cents to 67 cents an ounce in three days. The $100,000,000 gold reserve set apart to redeem greenbacks was being used for the redemption of treasury notes in gold, and the panic of 1893 had started. One hundred fifty-eight national banks failed, one hundred fifty-three in the West and South; one hundred seventy-two state banks and one hundred seventy-two private banks failed in 1893 alone. Everywhere gold was demanded, and it could be and was exported at a profit. Congress was called into extra session, the Sherman law was repealed October 30, 1893, and the undue inflation for the future was stopped. But silver legislation was by no means the only cause of the hard times from 1893–1897.

Money Legislation since 1893. — Since 1893, the country has virtually been on a gold basis, and no silver has been bought. In 1896, there was an excited campaign on the free-coinage issue, but its advocates were defeated, as was the case again in 1900. In 1900, gold was made the sole standard and was allowed free coinage. Silver dollars, from silver already owned, have been coined in small quantities occasionally, and they and silver certificates are still legal tender and may, on demand, be redeemed in gold. The *silver* question has always been rather a hard-times issue

and due largely to a period of low prices in agricultural products.

Subsidiary Silver Coinage. — Silver coins under the value of a dollar are called subsidiary coins, or fractional currency. They are made subsidiary by slightly reducing the amount of silver in them; for example, there is somewhat less silver in ten dimes or two half dollars than in a silver dollar. The subsidiary coins are legal tender to the amount of ten dollars. Below the silver fractional currency are the five-cent piece, composed of three fourths copper and one fourth nickel, and the one-cent piece, which is ninety-five per cent copper and five per cent tin and zinc. These are legal tender to the amount of twenty-five cents.

Bimetallism. — During the time of the exciting contests over the money question, especially from 1890 to 1900, much was heard of bimetallism, which means the use of two metals as standard money. Those who favored free coinage of silver (as well as gold) in unlimited quantities argued in favor of bimetallism, claiming that there was not gold enough in the world for its business, and that only a double standard could prevent fluctuations of prices. Monometallism, they maintained, had always produced a fall of prices. This was combated by the single-standard advocates, who insisted there was always plenty of gold, that legal attempts at keeping the metals at a parity are unsuccessful, and that the cheaper metal drives the dearer metal from the country. International bimetallists argue in favor of both metals at a legal ratio fixed and agreed upon by the leading commercial nations of the world, and efforts to come to an understanding on this have been made by several conferences but never successfully. The idea of international bimetallism served as an easy step

to wean the country from the advocacy of a bimetallic standard for itself independently.

Although prices were less for many years after 1893, they rose again when many new gold mines were opened. The increased supply of gold put an end to the agitation for free coinage of silver.

Present Status of Gold and Silver. — The coinage system of this country has almost from the beginning been used by politicians to further their ends, and perhaps on no other question has there been so much rash and dangerous experimenting accompanied with so great a loss. Leading political parties have, since the Civil War, been on all sides of coinage questions. Summing up briefly, we have to-day: —

1. The federal government in complete control of all coinage.

2. The gold dollar of 25.8 grains standard gold is the sole standard in the United States. All gold is coined free, but an act was passed (1911) which stopped coinage for about three years, and gold certificates will be issued instead, secured by gold bullion and foreign coin.

3. Silver dollars of 412.5 grains standard silver, and silver certificates are exchangeable in gold and greenbacks, and Sherman treasury notes are redeemable in gold; for this purpose a reserve fund of $150,000,000 is always kept on hand in the treasury.

Paper Money. — The word "currency" includes both metallic and paper money, and since paper money has been a very important factor in our country's history, it will be considered next. Paper currency is generally printed and issued by a government under economic pressure, when metallic currency is scarce and hard to obtain. It is *either a substitute* for real metallic money, or it is composed

of notes of the government — an evidence of debt to be paid at some future period when it is in better financial condition. Paper money is generally partial or full legal tender, and the creditors must accept it. Sometimes, as was the greenback originally, the paper money was irredeemable, but was made legal tender by law through the government's fiat. This paper money has been issued all through the history of our country, and has, until recently, since the resumption of specie payment in 1879, always been subject to fluctuations of value. Great care is necessary in issuing paper money, so that it will not produce unnatural inflation of prices and then a period of depression, when the paper money falls into depreciation and discredit.

In 1791, there was a United States Bank chartered for twenty years which issued $5,000,000 in paper notes, which were paid and canceled when it expired. A second United States Bank was chartered in 1816, for twenty years, and it issued $25,000,000 in legal tender paper notes, which occasionally depreciated, but were finally redeemed at face value. When the charter expired in 1836, it was not renewed.

Kinds of Paper Money To-day. — There are to-day five kinds of paper money in use in the United States.

Early in the Civil War the government ran out of money, could not get gold and silver, and hence had to suspend specie payment. In 1862, it issued a large sum of paper money called United States notes, promises to pay, $449,000,000 in all. These bills were popularly called greenbacks, and the government made them legal tender. After the war was over, the redemption of these notes began, but it was stopped in 1868. About $346,680,000 are still in circulation. The greenback has caused much financial

discussion, and like other parts of our financial system, got into politics. It is practically certain that the framers of the Constitution meant to limit the money of the country to gold and silver. The government's fiat made the greenbacks legal tender, except for duties on imports and interest on the public debt, and people had to take them, though they greatly depreciated during the Civil War. Not until 1879, at the resumption of specie payments, did they reach par with gold. Probably only the great need of the government allowed them finally to be declared legal by the Supreme Court in 1871, after having declared them illegal once. The greenbacks are now interchangeable for gold, hence they are no longer an irredeemable currency.

Silver certificates are issued instead of silver dollars by the treasury, as are gold certificates instead of gold, each of the two kinds of certificates being issued only when the coined metal is deposited.

A fourth kind of paper money now is the Sherman treasury note before mentioned, issued in 1890, and redeemable in either gold or silver, but the law creating them also said that the two metals must be kept on a parity at sixteen to one. About $150,000,000 was issued in these notes, but gradually they have been retired, until only $2,590,000 remained by October 31, 1913. Bonds had to be sold after the panic of 1893–1894 to keep all treasury notes at par, since the reserve of $100,000,000 to redeem them was depleted. It has been stated that since 1900, $150,000,000 in gold is kept as a reserve to redeem any United States notes. The government loses the use of this amount of money on account of its promissory notes in currency.

The fifth kind of paper money is the national bank note *and the federal* reserve note, which will be considered farther

on in this chapter under National Banks and the Federal Reserve Act. The total amount of money in circulation in the United States is estimated to be (1913) $3,693,221,568; the circulation per capita $34.90.

State Banks. — State banks were established before the adoption of the Constitution, but there were only a few when the first United States Bank was created. By the time of the downfall of the second United States Bank in 1837, there were nearly eight hundred state banks in the country. They were enemies of the United States Bank, and instrumental in destroying it, largely because of jealousy and the fact that any notes issued by states were not, as were those of the United States Bank, legal tender for all debts. It has always been a question whether state banks should have been allowed to issue paper money under the prohibition of the Constitution forbidding a state to emit bills of credit. However, after the second United States Bank was destroyed, Congress virtually turned the issuing of paper money over to the states, and in 1837, the Supreme Court decided that the state banks could issue bank notes if they would not try to make them legal tender, which is specifically forbidden by the Constitution. The West especially wanted cheap money and plenty of it. Matters grew chaotic. By 1861 there were about sixteen hundred state banks in the various states, all issuing paper money. The paper money of the states was not legal tender; it consisted of promises to pay, and it was optional with a creditor whether to take it or not. In most of the states the banking laws were lax, and many banks issuing paper money did it as wildcat speculation, without coin to redeem it, and difficulties multiplied in times of financial distress and uncertainty. By December, 1861, all banks suspended

specie payment. In 1865, after the national banks had been created, a tax of ten per cent was put on the circulation of state banks by Congress. This tax on the paper money of the state banks was upheld by the Supreme Court, and all state banks were forced to stop issuing notes, but could do other banking business under state laws and charters.

National Banks. — Civil war put the nation to a supreme test financially. In 1862, Secretary Chase recommended that the national government alone should issue money. By laws passed in 1863 and 1865, a system of national banks was created. The laws concerning the organization of national banks have been amended many times. At present these banks are organized by the federal government in much the same way as other corporations are organized by the states. There must be not fewer than five persons to start a bank; $25,000 capital is the minimum capital required, and so low a sum is allowable only in towns of fewer than 3000 inhabitants; while in places of between 3000 and 6000, $50,000 capital is required; in places of between 6000 and 50,000 inhabitants $100,000 is required; and in places of more than 50,000, the capital must be $200,000 or more.

National banks are subject to inspection at all times by government inspectors. An officer, called the comptroller of the currency, has general oversight over them. A charter is given on application, after the banking association has complied with the law. Formerly the bank was required to invest a part of its capital in United States bonds; since 1913, it has been permitted to do so if it wishes. These bonds are deposited in the United States Treasury, but the banks draw the interest on them. The sale of these bonds during the Civil War gave the government a large sum of

currency from all parts of the nation. The national bank gets from the comptroller of the treasury, paper-money bank notes to the full amount of the security bonds deposited. These notes, ranging in value from five dollars upward, are printed and complete except for the signature of the president and cashier of the bank receiving them. They are not, however, legal tender, being merely promises to pay, but they are as safe as the government bonds and other deposited securities which secure them; for, when a national bank fails, the United States treasury pays its outstanding notes, and keeps the bonds. In addition to the main treasury at Washington and nine subtreasuries in different parts of the Union, national banks so designated by the secretary of the treasury, as well as the newly created federal reserve banks, hold the revenues of the government and act as fiscal agents of the United States when requested to do so by the treasury department.

Savings Banks. — Savings banks, which are organized and controlled by the states, have arisen all over the country, especially in the East. These banks accept small deposits, as small as ten cents, after an initial deposit, generally of one dollar, has been made, and this money, if left for a given period of time, bears a small rate of interest. These banks encourage thrift, and add greatly to the economic strength of a community. The fiscal year ending June 30, 1910, showed 1759 savings banks with deposits of over $4,000,000,000, an average to each depositor of $445.22.

Postal Savings Banks. — A bill approved June 10, 1910, provided for postal depositories for savings at interest with the security of the government for repayment thereof. Accounts may be opened by any one over ten years of age. Deposits are to start with not less than one dollar, and one

dollar deposits or multiples thereof may be subsequently made, but not more than $100 may be deposited in any one month, the balance shall not exceed over $500 for any one person, and interest at two per cent shall be allowed. The government removes the money to state or national banks, lending it to them at not less than two and one fourth per cent. Early in 1911 the postal savings banks were inaugurated, only one in each state to start with, but this number has been rapidly extended until the whole country is now organized. These banks are proving very popular and had deposits of nearly $28,000,000 at the close of the year 1912.

National Monetary Commission. — In 1908 there was created a National Monetary Commission composed of eighteen members, nine senators and nine congressmen, who were to investigate the monetary system of the United States and report desirable changes in it and in the laws relating to banking and currency. This commission, with ex-senator Aldrich, of Rhode Island, at its head, went thoroughly into the matter and made a report to Congress advocating a great central reserve bank. The country did not take kindly to the idea of a great central reserve bank, but the commission's report aroused much interest and had good educational effects.

The Federal Reserve Act. — All classes of business men agreed that our currency laws should be revised. The finances of the country have been unsteady. In parts of the country, especially in the West and South at the time of great crop sales, the demands for money caused a financial stringency, and frequently bank failures. Inability to convert bankable notes and securities into cash, and poor facilities for expanding and contracting the currency, have *frequently* ruined strong financial institutions and precipi-

tated panics. To remedy these defects, a law was passed December 23, 1913, known as the Federal Reserve Act. The act is long and complex, so only a few of the essentials will be noted.

The law provides for the creation of not less than eight nor more than twelve federal reserve banks, each acting as a central bank for one of the corresponding federal reserve districts into which the country is divided. In 1914, accordingly, twelve such banks were established, one for each district, numbered from one to twelve, respectively; they were located at Boston, New York, Philadelphia, Cleveland, Richmond, Atlanta, Chicago, St. Louis, Minneapolis, Kansas City, Dallas, and San Francisco. The control of the entire system is under a *federal reserve board* of seven members, consisting of the secretary of the treasury, the comptroller of the currency, and five other members appointed by the President. Of the five appointees the regular term is ten years each. At least two of them must be experienced bankers; not more than one may come from any federal reserve district; and they receive an annual salary of $12,000 and traveling expenses. Of the five board members appointed, one is designated by the President as governor, and one as vice governor of the federal reserve board.

Each federal reserve bank may have branch banks within the federal reserve district in which it is situated, and must have a subscribed capital stock of at least $4,000,000, which amount is open to subscriptions first of national banks " in a sum equal to six per cent of the paid-up capital stock and surplus of such banks." The government authorizes a reserve bank to issue notes against bankable securities and collateral approved by its board of directors, which notes

are redeemable at the treasury department in gold, and at each regional reserve bank in gold or lawful money. The quantity of the new notes is wholly within the control of the federal reserve board. A reserve in gold of forty per cent must be maintained by the bank against outstanding reserve notes. These reserve notes are a prior lien on the entire assets of the regional reserve bank issuing them, hence are perfectly safe. Every regional reserve bank has nine directors, three of whom are chosen by the federal reserve board, one of the three acting as chairman, and six are chosen by member banks. The chairman of the regional reserve board of directors is the medium of communication between the regional bank and the federal reserve board.

National banks, qualified state banks, and qualified trust companies may become "member banks," by subscribing to the capital of the federal reserve bank of their district. National banks are forced to subscribe, and qualified state banks and trust companies are invited to do so. The member banks are entitled to receive an annual dividend of six per cent on the paid-in capital stock which they have taken for membership in the regional reserve bank. The national bank notes now in existence will not be reduced in volume for at least two years; after that time and during a period of twenty years thereafter, a member bank may offer for sale any or all of its United States bonds, on redeeming its circulating bank notes. The withdrawal of the present national bank notes will give place for the new federal reserve notes above mentioned. The amount of federal reserve notes will be expanded, or contracted, by redemption, as business conditions warrant, according to the judgment of the federal reserve board. National

banks may conduct savings departments, the funds of which cannot be withdrawn unless thirty days' notice has been given. The banks, however, may waive the time notice as each case occurs. The member banks may buy approved commercial securities, and, when necessary, these securities will be taken up by the regional reserve banks and the member be paid lawful money. This will relieve the member bank from financial embarrassment at times when money is in great demand, and will put money where most needed.

For the first time in American financial legislation, farming is recognized as a business. Member banks are allowed to purchase farm securities and discount paper for six months which has been issued for agricultural purposes or based on live stock; also, member banks outside the reserve cities are allowed to buy five-year first mortgages on unencumbered and improved farm land to fifty per cent of its market value.

On July 31, 1914, there were seventy-five hundred forty-eight national banks doing business in the United States whose authorized capital was $1,073,734,175, with an outstanding circulation of over $750,000,000 bank notes. All but very few national banks have accepted membership in the new federal reserve plan, which guarantees an enormous capital with which to initiate it. Except for the general observations made, the national banks will go on under very much the same general regulations as before. It will take time to work out the details of the federal reserve system. The possibilities cannot be seen, but the best public opinion seems to be that the plan is sound, and under wise direction will do much to insure financial stability.

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SUGGESTIVE QUESTIONS

1. Discuss briefly the money situation prior to the adoption of the Constitution.

2. How does Congress borrow money?

3. Where are the mints located? How has the value been regulated?

4. What is Gresham's law? How does it affect money?

5. What is meant by "free coinage"? Define the Bland-Allison act.

6. What is meant by the gold standard? Subsidiary coinage? Bimetallism?

7. *Give* the present status of the relation between gold and silver.

8. Define currency. What gives paper money its value? What kinds of paper money are in use now?

9. Where do state banks get their authority? What functions have they?

10. Define a national bank. How organized? Capital and directors? How controlled?

11. Define a savings bank. Postal savings bank. Good of, to a community?

12. Wherein is our currency system faulty to-day? How may it be remedied?

QUESTION FOR DEBATE

Resolved, That the Aldrich currency reform plan, or some other one-central-bank system, should be adopted.

CHAPTER XI

NATIONAL LEGISLATIVE PROHIBITIONS AND STATE LIMITATIONS

Legislative Prohibitions and State Limitations. — The government of the United States is one of checks and balances between the nation and the states. It was most earnestly desired that the federal government should be strengthened sufficiently to protect life and property, and promote the general welfare; but it was also desired that it should in no wise endanger the autonomy of the states. The definition of "implied powers" is largely a matter of judgment on the part of Congress and the courts; but some of these powers were deemed sufficiently menacing to the states to be definitely prohibited.

Article I, Section 9, Clause 1. — *The migration or importation of such persons as any of the States now existing shall think proper to admit shall not be prohibited by the Congress prior to the year one thousand eight hundred and eight, but a tax or duty may be imposed on such importation, not exceeding ten dollars for each person.*

The Slave Trade. — That the general feeling was averse to the slave traffic is shown by the fact that it was prohibited by a congressional law which took effect January 1, 1808, the earliest date allowed by the Constitution for its prohibition. It is estimated that between the adoption of the Constitution and the year 1808, over three hundred thousand slaves were imported into this country. The *federal government* had a right to impose a tax of ten dol-

lars for each slave imported, but it never exercised this power. This clause is now obsolete, and is of historical interest only.

Slavery Prohibited. — The Thirteenth Amendment to the Constitution of the United States, which abolished slavery in every part of the United States and all the territory under its jurisdiction, was ratified December 18, 1865. By this and later amendments, the negro was given the same constitutional rights enjoyed by the white man.

Sec. 9, Clause 2. — *The privilege of the writ of habeas corpus shall not be suspended unless, when in cases of rebellion or invasion, the public safety may require it.*

Writ of Habeas Corpus. — A writ is an instrument in writing, issued by authority of law, commanding the person to whom it is directed to do a certain act. Habeas corpus means "you may have the body"; and the writ (once in Latin, now in English) commands the officer to whom it is addressed to bring into court the person whose detention is to be inquired into. The writ of habeas corpus is regarded as the greatest known safeguard against unlawful imprisonment. If a person is imprisoned, he, or his friends, may make application before a competent judge for a writ authorizing the prisoner to be brought before the judge for an investigation of the legality of the imprisonment. The person or persons detaining him will be given an opportunity to show reasons why the person should not be discharged. If, after the evidence is heard, the judge is of the opinion that the accused is not lawfully detained, he will discharge and release him. But the guilt or innocence of the accused, the truth or falsity of the charges against him, are not inquired into.

This clause of the Constitution provides that the privilege of the writ of habeas corpus cannot be suspended except when "in cases of rebellion or invasion the public safety may require it." The question of in whose power lies the right to suspend the writ of habeas corpus, has caused a great deal of discussion. Occasion for the question to cause much controversy never arose until April 27, 1861, when Lincoln suspended the writ over a limited area. This was a dangerous proceeding; but public safety demanded it and Lincoln repeated his action several times later. In March, 1863, the President was authorized by Congress to suspend the writ during the rebellion whenever he believed the public welfare would be aided thereby, and in September, 1863, he extended the suspension over the whole country. This act worked a great hardship on many innocent people who were in prison accused of military offenses and who under the circumstances could get no hearing. In the hands of an unscrupulous and injudicious President, the right to suspend the writ of habeas corpus would be a power that would endanger the republic itself. Since the war, the Supreme Court has decided that the final suspension of this writ belongs only to the courts.

Sec. 9, Clause 3. — *No bill of attainder or ex post facto law shall be passed.*

A Bill of Attainder. — The following extract from a decision of Mr. Justice Field, of the Supreme Court, gives us an excellent definition of this bill: —

"A bill of attainder is a legislative act which inflicts punishment without a judicial trial. If the punishment be less than death, the act is termed a bill of pains and penalties. Within *the meaning of* the Constitution, bills of attainder include bills of

pains and penalties. In these cases the legislative body, in addition to its legitimate functions, exercises the powers and office of judge; it assumes, in the language of the text-books, judicial magistracy; it pronounces upon the guilt of the party, without any of the forms of safeguards of trial; it determines the sufficiency of the proofs produced, whether conformable to the rules of evidence or otherwise; and it fixes the degree of punishment in accordance with its own notions of the enormity of the offense. . . . These bills are generally directed against individuals by name; but they may be directed against a whole class."

The Long Parliament which met in England, 1641, condemned Strafford and Archbishop Laud to death illegally by attainder. The framers of the Constitution felt that so dangerous a power should not be granted to Congress, and also prohibited the same thing to the states in Section 10, Clause 1 of the Constitution.

Ex Post Facto Laws. — An ex post facto law declares an act to be a crime when it was not such at the time it was committed; or it enlarges or makes the punishment for it more severe than it was when the crime was committed; or even changes the rules of evidence so as to make it easier to convict the accused. Ex post facto laws relate exclusively to crimes, and are void because unconstitutional.

Sec. 9, Clause 4. — *No capitation or other direct tax shall be laid, unless in proportion to the census or enumeration hereinbefore directed to be taken.*

Capitation and Direct Taxes. — A capitation tax is a tax on the head, *i.e.*, on the individual. This clause was especially made a part of the Constitution to guard against

the levying of a special, or poll, tax on the two fifths of the slaves not enumerated for representation as mentioned in Article 1, Section 2 of the Constitution. The national government has never levied a capitation tax but has levied direct taxes a few times.

Sec. 9, Clause 5. — *No tax or duty shall be laid on articles exported from any State.*

This clause was inserted as part of a compromise under which Congress was given power to regulate commerce. Certain states were opposed to giving Congress unlimited power over commerce, and they secured the adoption of this restriction, which prevents any tax on exports.

Sec. 9, Clause 6. — *No preference shall be given by any regulation of commerce or revenue to the ports of one State over those of another; nor shall vessels bound to, or from, one State, be obliged to enter, clear, or pay duties in another.*

Entering and Clearing. — Before a ship can "enter" a port, one of her officers must report the arrival of the ship and the nature of the cargo to the customs authorities and get permission to "enter." To "clear" is to obtain from the same authorities the necessary papers permitting the sailing from the port. All ships arriving from foreign ports are required to "enter," and all that sail for foreign ports must "clear" before entering and leaving port.

Sec. 9, Clause 7. — *No money shall be drawn from the treasury but in consequence of appropriations made by law; and a regular statement and account of the receipts and expenditures of all public money shall be published from time to time.*

Congress and the Treasury. — This clause places a limitation on the executive department. Those who have charge

of the public treasury are appointed by the President, and without this constitutional limitation he would have an opportunity to use the public funds to foster his own private interests. This condition might lead to an overthrow of our liberty and to a national crisis. As it is, not a dollar can be appropriated out of the treasury, except by Congress. The governmental expenses are appropriated annually.

Annual Report. — A complete report of all receipts and expenditures is made to Congress annually. This requirement insures a proper use of the public funds and great accuracy in keeping the accounts of the government. Any citizen has a right to examine the annual report issued by the treasury department or any other department of the government. The fiscal year of the government ends June 30.

There is a strong demand now for the United States to adopt a budget system as has been adopted in other countries. This would compel each cabinet official to make a complete estimate of expenses and expenditures each year in the reports to the President, and thus put system into governmental financiering. The budget, as a whole, would be submitted by the treasury department. At present, seven different House committees, each independent of the rest, and all of whom may ignore the Ways and Means Committee, prepare the appropriation bills.

Sec. 9, Clause 8. — *No title of nobility shall be granted by the United States; and no person holding any office of profit or trust under them, shall, without the consent of Congress, accept of any present, emolument, office, or title, of any kind whatever, from any king, prince, or foreign State.*

Titles of Nobility. — The action of the government would not be consistent with the theory of equality upon

which our republic is based should it grant any of its subjects a title of nobility. Our government was established for all the people and not to encourage class distinctions and social castes, by granting titles of nobility.

Presents. — If federal officers could receive gifts of value of any kind from a foreign king, prince, or state, they might be influenced to sacrifice the interest of the nation; hence the accepting of such gifts is forbidden by the Constitution. However, in case a foreign power should desire to compliment an official of this country with a gift, Congress may authorize the officer to accept it.

Sec. 10, Clause 1. — *No State shall enter into any treaty, alliance, or confederation; grant letters of marque and reprisal; coin money; emit bills of credit; make anything but gold and silver coin a tender in payment of debts; pass any bill of attainder, ex post facto law, or law impairing the obligation of contracts, or grant any title of nobility.*

Sec. 10, Clause 3. — *No State shall, without the consent of Congress, lay any duty on tonnage, keep troops or ships of war in time of peace, enter into any agreement or compact with another State or with a foreign power, or engage in war, unless actually invaded, or in such imminent danger as will not admit of delay.*

Treaties and Confederations. — It would not be consistent with the idea of national sovereignty if a state could enter into treaties, alliances, confederations, and grant letters of marque and reprisal. An arrangement of this kind would lead to international entanglements and to the destruction of our Union. It was intended to take away from the states, and to vest exclusively in Congress, matters affecting our relations with foreign powers or the *relations* between states.

Money and Bills of Credit. — Bills of credit are, according to the Supreme Court, paper issued by the sovereign power, containing a pledge of its faith and designed to circulate as money. If each state had the right to coin money, we should have as many kinds of money as we have states, and this would lead to a multiplicity of commercial dissensions, inconveniences, and even to national danger. The power to coin money is a privilege that must belong only to the highest sovereign authority.

Legal Tender. — Without the constitutional prohibition, the states might perhaps make state bank notes legal tender, but under the Constitution no state can "make anything but gold and silver a tender in payment of debts." This gives us national uniformity. This subject is discussed more fully in the chapter on Money and Banks.

Bills of Attainder and Ex Post Facto Laws. — The states are prohibited from passing bills of attainder or ex post facto laws, for the same reason that the central government is denied these powers. It is a prohibition in the interest of justice.

Contracts. — A valid contract must be made in good faith and have in it the elements of a moral transaction. The Constitution is itself a moral law, and implies a faithful discharge of all moral contracts whether made by nation or state. The Constitution wisely prohibits any state from declaring invalid a valid or legal contract. This clause has prevented much confusion in property rights, which would obtain through change of laws. A state may pass laws operating upon future contracts between its own citizens.

Title of Nobility. — The same principle that restrains the nation from granting titles of nobility obtains against the state.

Duties. — The system of regulating commerce and of laying duties or imposts on imports and exports is largely in the hands of Congress. We find, however, in Clause 2, one exception — a state is given the privilege to lay duties to an amount "absolutely necessary for executing its inspection laws." If the amount levied should be more than the amount needed for this purpose, the balance would go to the treasury of the United States. The state inspection laws are also subject to the revision and correction of Congress. This prohibition on the states makes it impossible for a state to use this power selfishly under cover of inspection laws.

Inspection Laws. — Inspection laws are the laws and regulations governing the inspection, or examination, of commodities offered for sale. The subject of these laws is to detect fraudulent practices, improve the quality of commodities, and to indicate the quality of each by marking it. Such work is now done mostly by the federal government. There are, however, many city and state regulations also for the inspection of milk, perishable foods, and other products.

Tonnage. — Tonnage refers to duties on ships. When duties are laid upon ships, the amount is determined by the registered tonnage of the ship, which may not indicate its actual size. States are prohibited from laying duties on ships, as this is a means of regulating commerce, which power belongs only to the national government. A state has the right to tax, according to their value, ships belonging to citizens, or other persons residing within their borders, in the same manner as other property.

Other Federal Rights. — States are not allowed, without *the consent* of Congress, to keep troops or ships of war

in time of peace; to enter into an agreement with another state or foreign nation, or to engage in war when not in imminent danger. All these powers, by their very nature, belong to the federal government, which acts at once when a state is in danger. Without these prohibitions, one or more states could weaken the Union, destroy domestic tranquillity, work for the common defense of one or more states, ignore the general welfare of the Union, and deprive citizens of the blessings of liberty that naturally belong to all under a republican form of government. The term "troops" means a regular standing army, and not the militia.

Amendment XIV, Section 1, Clause 2. — *No State shall make or enforce any law which shall abridge the privileges of citizens of the United States; nor shall any State deprive any person of life, liberty or property, without due process of law; nor deny to any person within its jurisdiction the equal protection of the laws.*

This relates to conditions obtaining through the reconstruction period at the South in the years following the Civil War, and is introduced in this connection since it is germane to the other limitations on the states. It will be noted again when considering the amendments to the Constitution. A very interesting case came before the United States District Court at Nashville, in 1910, at which time a Law and Order League secured an injunction against violators of Tennessee's liquor laws in Memphis, when the law of the state was being enforced in the greater part of the state but not in Memphis. The League pleaded for "the equal protection of the law," as in the Fourteenth Amendment, but the federal court denied that it had jurisdiction, and dismissed the case.

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SUGGESTIVE QUESTIONS

1. Why did slavery cause a dispute in the constitutional convention? How was it settled?

2. What is meant by the writ of habeas corpus? Importance of? How has it caused trouble? Who only may suspend it?

3. What is the importance of bills of attainder and ex post facto laws?

4. How only may direct taxes and capitation taxes be levied? Why?

5. Why cannot a state levy taxes on imports and exports? Was not this prohibition a limit on sovereignty? How?

6. What is the relation between Congress and the treasury department?

7. Why forbid titles in the United States?

8. Section 10, Clauses 1, 2, and 3 relate to the most important prohibitions on the states. Why forbid the states to make treaties and confederations? To emit bills of credit? To make other money than gold and silver legal tender? To impair a contract? To keep troops or ships in time of peace? Does this forbid state militia? To engage in war or make a compact with a foreign power?

QUESTION FOR DEBATE

Resolved, That the United States should require the President to submit an annual budget, showing the probable income from all *sources, and an* estimate of the various expenditures.

CHAPTER XII

THE EXECUTIVE DEPARTMENT

Article II, Sec. 1, Clause 1. — *The executive power shall be vested in a President of the United States of America. He shall hold his office during the term of four years, and, together with the Vice President, chosen for the same term, be elected, as follows:*

Sec. 1, Clause 2. — *Each State shall appoint, in such manner as the Legislature thereof may direct, a number of electors, equal to the whole number of senators and representatives to which the State may be entitled in Congress. But no senator or representative, or person holding an office of trust or profit under the United States, shall be appointed an elector.*

The Chief Executive. — The government under the Articles of Confederation had no chief executive to enforce the laws and lead in the shaping of a national policy. The constitutional convention had but little trouble in deciding to provide for a strong executive department, but had great difficulty in deciding whether the executive should be single or plural, and greater difficulty still in arranging the matter of his election. Some of the greatest statesmen in the convention wanted two or more executives. One President looked too much like a king, and this did not suit them, as they had just liberated themselves from despotic rule. The convention, however, finally and wisely declared that the executive power should be vested in a President of the United States of America. Time has proved the wisdom of this conclusion. All believe at the

present time, that the executive power should be vested in one man. The method of electing a President took up a great deal of time; and at first it was settled that he should be elected by Congress for a term of seven years and should not be eligible for reëlection. It was near the close of the convention, that a committee of one member from each state proposed a change in the length of the term of office to four years with reëligibility, and also the method of choosing the President by means of electors.

Term of Office. — Some of the able men of the convention were of the opinion that the President should serve during good behavior. Hamilton proposed that he be chosen for life. Cutting the length of the term to four years has been of doubtful good. Election years prove bad in a business way. Again, a President may plan during almost his whole first term for reëlection, thus minimizing his efficiency as a chief executive. It has these good points, however, in coming frequently: it gives the voters a chance to find out what the leading issues are, and the campaign educates in politics and government; also, it is more democratic, and allows an unsatisfactory administration to be changed.

Presidential Electors. — The original idea of using electors, instead of leaving the election to the popular vote, was to prevent a bad choice due to too much campaign excitement or lack of information about the candidates. "The Federalist," Number 68, says: "A small number of persons, selected by their fellow-citizens from the general mass for this special object, would be most likely to possess the information and discernment and independence requisite to so complicated an investigation."

The number of electors chosen by each state is the same as the number of its senators and representatives in Con-

gress. Congress fixes by law, under each census, the number of national representatives. The President elected in November, 1912, was chosen by an electoral college composed of 531 members, which is equal to the total number of representatives and senators under the census of 1910. It takes a majority of the members of the electoral college to elect a President. The electoral college for 1916 and 1920 numbers likewise 531 members.

Manner of Choosing Electors. — The manner of choosing electors is now uniform in all the states; that is, by the popular vote of the whole state. Each political party nominates the full number of electors and then makes every effort to carry the vote of the state for its party. Up to 1832, electors were chosen by the state legislatures in some states; in others, each congressional district voted for its own candidate, and the people of the state voted for two electors at large. Since 1872, the practice of every state has been to vote for all its electors on a general ticket. There is no qualification for an elector, except that at the time he shall not be holding an office of profit or trust under the United States. Congress, as early as 1845, allowed states to provide a law to fill a vacancy in the electoral college between the date of election and the time the electors cast their vote.

The Original Clause. — The original Clause 3 of this part of the constitution reads as follows: —

Sec. 1, Clause 3. — The electors shall meet in their respective States, and vote by ballot for two persons, of whom one at least shall not be an inhabitant of the same State with themselves. And they shall make a list of all the persons voted for, and of the number of votes for each; which list they shall sign and certify and transmit sealed to the seat of the government of the United

States, directed to the President of the Senate. The President of the Senate shall, in the presence of the Senate and House of Representatives, open all the certificates, and the votes shall then be counted. The person having the greatest number of votes shall be the President, if such number be a majority of the whole number of electors appointed: and if there be more than one who have such majority and have an equal number of votes, then the House of Representatives shall immediately choose by ballot one of them for President; and if no person have a majority, then from the five highest on the list, the said House shall in like manner choose the President. But in choosing the President, the votes shall be taken by States, the representation from each State having one vote; a quorum for this purpose shall consist of a member or members from two-thirds of the States, and a majority of all the States shall be necessary to a choice. In every case, after the choice of the President, the person having the greatest number of votes of the electors shall be the Vice President. But if there should remain two or more who have equal votes, the Senate shall choose from them by ballot the Vice President.

This clause was abrogated by the Twelfth Amendment, which became a part of the Constitution, September 25, 1804. It is now only of historical interest. The election of 1796 resulted in the choice of a President of one party and a Vice President of another; in 1800 two men received a majority vote of the electors, but there was a tie, each receiving seventy-three electoral votes, and the election was carried to the House of Representatives. Wild excitement prevailed, and only on the thirty-sixth ballot in the House, was Jefferson elected. The results of these two elections brought about the Twelfth Amendment.

Amendment XII, Article 12. — *The electors shall meet in their respective States, and vote by ballot for President and Vice President,*

one of whom, at least, shall not be an inhabitant of the same State with themselves; they shall name in their ballots the person voted for as President, and in distinct ballots the person voted for as Vice President; and they shall make distinct lists of all persons voted for as President, and of all persons voted for as Vice President and of the number of votes for each, which lists they shall sign and certify, and transmit sealed to the seat of the government of the United States, directed to the president of the Senate; the president of the Senate shall, in the presence of the Senate and House of Representatives, open all the certificates, and the votes shall then be counted; the person having the greatest number of votes for President shall be the President, if such number be a majority of the whole number of electors appointed; and if no person have such majority, then from the persons having the highest numbers not exceeding three, on the list of those voted for as President, the House of Representatives shall choose immediately, by ballot, the President. But in choosing the President, the votes shall be taken by States, the representation from each State having one vote; a quorum for this purpose shall consist of a member or members from two thirds of the States, and a majority of all the States shall be necessary to a choice. And if the House of Representatives shall not choose a President whenever the right of choice shall devolve upon them, before the fourth day of March next following, then the Vice President shall act as President, as in the case of death or other constitutional disability of the President. The persons having the greatest number of votes as Vice President shall be the Vice President if such number be a majority of the whole number of electors appointed; and if no person have a majority, then from the two highest numbers on the list, the Senate shall choose the Vice President; a quorum for the purpose shall consist of two thirds of the whole number of Senators, and a majority of the whole number shall be necessary to a choice. But no person constitutionally ineligible to the office of President shall be eligible to that of Vice President of the United States.

The chief differences between the original plan of electing the executive and the one now used under the Twelfth Amendment are in the requirement of each elector to cast separate ballots for President and Vice President, and, in case the election goes to the House of Representatives, in the number of men to be voted for. It should be noted that the Constitution does not prohibit the election of both President and Vice President from the same state, but if this should ever occur, that state could vote for only one of them in the electoral college. Presidents were chosen by the House of Representatives in 1800 and in 1824. Only once has the Senate chosen the Vice President: Richard M. Johnson, who in 1836 failed by one of having a majority vote out of 294 electoral votes, but the Senate chose him. In case of no election of President by the electoral college, or by the House of Representatives, then the Vice President elect, even if chosen by the Senate, would become President.

Sec. 1, Clause 4. — *The Congress may determine the time of choosing the electors, and the day on which they shall give their votes; which day shall be the same throughout the United States.*

Date of the Election. — We speak of a presidential election as taking place on the first Tuesday after the first Monday in November every four years. Strictly speaking, no vote is given for President and Vice President on that date. We vote for electors, and not for President and Vice President. It is true, however, that in voting for the electors nominated by the political organization with which we affiliate we have in mind, at the time of casting our ballots, the election of the candidate nominated by our *organization*. The electors chosen are pledged to vote

for the party's candidate. No elector has ever been known to violate his pledge, but the electors have the power to do so. The electors are chosen by the direct popular vote of each state. On the second Monday of January all the state electoral colleges must meet, generally at the state capitol, and cast their votes. They make out three lists of votes, certify to them, sign, and seal. One list is carried by special messenger to the President of the Senate at Washington; another is sent to him by mail, and the third list is deposited with the United States District Judge of the district in which the electors meet. The presidential electors receive no salary for their work, and their official duty ends with the casting of their vote.

Counting the Electoral Vote. — The two branches of Congress meet in the House of Representatives the second Wednesday in February following the vote for electors, and the sealed vote of the electors from each state is broken by the president of the Senate and handed to the tellers appointed to count the vote. Candidates receiving the required number of votes are declared to be elected President and Vice President of the United States. Really, there is no election of a President until this time. Nevertheless, we know who will be elected very soon after the election has been held in the different states.

Joint electoral high commission. — In 1876 the Democratic and Republican parties both claimed the election of their respective electors in Florida, Louisiana, Oregon, and South Carolina, and, as a result, double election returns were sent in by these states. The election of the President and Vice President depended upon the vote of these states. Consequently, great excitement prevailed, and the contest over the disputed returns was intense.

Double returns had been sent in at previous elections, but this was the first time in the history of the country when the election of the President depended upon them. An electoral commission was appointed by Congress in January, 1877, consisting of five United States senators, five members of the House of Representatives, and five associate judges of the Supreme Court, to whom were referred the double election returns for their decision as to which returns were to be accepted. The vote of the commission stood, in every case, seven for Tilden and eight for Hayes, and, as a result, Rutherford B. Hayes, the Republican candidate, was elected President of the United States. The disputed returns were decided by a party vote, there being eight Republicans and seven Democrats on the commission.

The Act of 1887. — The bitter controversy over the disputed election of 1876 led to a statute in 1887, regulating the counting of votes for President and Vice President. It declared the action of the state under its own laws was the final arbiter in any dispute. In case a state sends in double returns, the statute defines the action of Congress by requiring each House to sit separately in deciding the dispute, and if the two Houses fail to agree, the state's vote is lost.

Minority Presidents. — The electoral college has not worked as was planned by the framers of the Constitution. They tried to avert political strife by taking the election of the executive from the political arena, but this has proved to be impossible. The present plan, in its working, is more democratic than the one devised by our forefathers; yet it has defects as regards our idea in having the majority rule. We have had ten so-called minority Presidents, who received a majority of the electoral vote, but a minority

of the popular vote. This has usually been due to the number of tickets in the field, as in the case of Abraham Lincoln whose popular vote in 1860 fell far short of the combined vote of his opponents, though he received a majority of the electoral vote. Again, in many of our elections, the contest narrows down to a few pivotal states, like New York and Indiana. It may occur that a certain group of states, with a given electoral vote, may be carried for a candidate by a very small majority; one state, not having nearly so many electoral votes as this group, may give twice or thrice the popular majority that the group gave. Hence it may be seen that an electoral majority may be based upon a popular minority. A good example of this was in 1888, when Cleveland received 95,534 popular majority, but received only 168 electoral votes to Harrison's 233. Woodrow Wilson received an enormous majority in the electoral college in 1912, but failed to get a majority of the popular vote.

President Making. — From 1788 until 1800, men were named for President and Vice President with little artificial aid and stimulus, and without any delegates or conventions. In 1804 came the first congressional nominating caucus, which named Jefferson and Clinton for President and Vice President. The congressional caucus, made up of the members of the party in Congress, was in vogue until 1824, when, owing to cliques and questionable methods, it fell into disrepute; then state legislatures and county assemblies took a hand in placing their favorite candidates before the public. From 1824 to 1836 was a transition period, in which the congressional caucus passes away and state legislatures took over most of the work. In 1831 the Antimasonic party held the first national nomina-

ing convention. Since 1836, all parties have held national conventions to nominate candidates.

The national convention is composed usually of twice as many delegates from all the states as those states have representatives and senators in Congress.[1] Alternates are provided for in case the delegate cannot attend. These delegates and alternates are chosen either by a state convention, by congressional district conventions and a state convention (the latter choosing four delegates at large — two for each United States senator), or in some states now by a direct primary. Territories and insular possessions may have delegates if the party is willing. The national convention meets generally in June or July; organizes; appoints committees, the most important of which is the committee on a platform of principles; listens to oratorical efforts of leaders; and after the platform has been read, nominates candidates for President and Vice President. A majority vote nominates in a Republican convention, but a two-thirds majority is required by a Democratic convention. The work of the convention ends with the selection of the candidates, except that the delegates from each state choose a national committeeman. The national committee of the party is thus made up of one member from each state. They elect a chairman, generally from among their own membership, but sometimes he is selected by the candidate for President from without the national committee. This committee organizes the campaign, raises the money, selects speakers, and sends out literature. Our system of electing Presi-

[1] The rules of the Progressive party and (since 1913) of the Republican party call for a somewhat smaller number, based partly on the number of *party voters in each state.*

dents may not be the best, but being almost all voluntary work, and based on custom and not law, it is marvelous in its achievements. The campaign of 1912 was economically conducted, the committees of the leading parties were careful from whom they took contributions, and the names of the donors with the sum given was published before the election. This subject is more fully discussed in Chapter XXVI.

Sec. 1, Clause 5. — *No person except a natural-born citizen, or a citizen of the United States at the time of the adoption of this Constitution, shall be eligible to the office of President; neither shall any person be eligible to that office who shall not have attained to the age of thirty-five years, and been fourteen years a resident within the United States.*

Qualifications of the President. — The President must be a natural-born citizen who is at least thirty-five years old and who has been for fourteen years a resident within the United States. A natural-born citizen of this country is one who was born within the allegiance of the United States government. Some very prominent American citizens in 1787 were men of foreign birth, *e.g.*, Alexander Hamilton, and a provision was made for their eligibility. Only natural-born citizens are now eligible. Residence abroad on official business for a period of time does not disqualify.

Sec. 1, Clause 6. — *In case of the removal of the President from office, or of his death, resignation, or inability to discharge the powers and duties of the said office, the same shall devolve on the Vice President; and the Congress may by law provide for the case of removal, death, resignation or inability both of the President and Vice President, declaring what officer shall then act as President, and such officer shall act accordingly, until the disability be removed, or a President shall be elected.*

Presidential Vacancy. — In case of death, removal, resignation, or inability of the President to discharge the duties of the office of the President of the United States, the Vice President becomes President. In case of the death, removal, or inability of the Vice President, the Constitution provides that Congress may by law provide for filling the vacant office. Congress in 1792 provided that in case of the death or removal of both President and Vice President, the president *pro tempore* of the Senate should become President, and if there were none, then the speaker of the House. What inability to perform the duties of President may mean, has never been settled. No action was taken to settle it during the lingering illness of Garfield or McKinley. If under the act of 1792, President Johnson had been convicted in 1868, Senator Ben Wade, who exercised his right to vote in the case, and voted for the conviction of Mr. Johnson, would have become President. Under this same system, a death or removal might occur when there was neither president of the Senate nor speaker of the House; also, these might be of opposite political faith to the President and Vice President who had been elected, and thus cause sudden change in the policy of the administration. This was all remedied by statute.

The Law of Succession. — Congress, acting under its constitutional authority in Clause 6, passed a new presidential succession law in January, 1886. This provides that in case of removal, death, resignation, or inability of both the President and Vice President of the United States, the secretary of state shall be President. If there be no secretary of state, or in case of his removal, death, resignation, or inability, then the secretary of the treasury; *and the next* in order are, the secretary of war, the attorney

general, the postmaster general, the secretary of the navy, and the secretary of the interior. The secretaries of agriculture, commerce, and labor, have not had extended to them by Congress the provisions of the presidential succession act. Secretaries must have the constitutional qualifications for President or they would be passed. A secretary, becoming acting President thus, holds office only for the remainder of the four-year term, and must, upon taking office, convene Congress in extraordinary session after giving twenty days' notice. There is still no law to provide for the succession, should both President and Vice President die after the electoral college has met and before their inauguration, on March 4.

Sec. 1, Clause 7. — *The President shall at stated times receive for his services a compensation which shall neither be increased nor diminished during the period for which he shall have been elected, and he shall not receive within that period any other emolument from the United States, or any of them.*

Salary of President and Vice President. — The salary of the President and Vice President cannot be increased or diminished during their term of office. In 1789 Congress fixed the salary of the President at $25,000; raised it to $50,000 in 1873; again raised it to $75,000 in 1909. The President is provided with a furnished residence — the White House — and allowances for fuel, lighting, clerks, horses, etc. The salary is small compared with those of even the lesser European monarchs. The Vice President, since 1907, receives a salary of $12,000.

Sec. 1, Clause 8. — *Before he enter on the execution of his office, he shall take the following oath or affirmation:*

"I do solemnly swear (or affirm) that I will faithfully execute the office of President of the United States, and will to the best of my ability, preserve, protect and defend the Constitution of the United States."

The Inauguration of the President and Vice President. — The inauguration of the President and Vice President is in the hands of a committee whose duty it is to look after every detail connected with the inauguration. At noon, on the 4th of March, the President-elect, accompanied by the President of the United States, is escorted to a platform erected on the east side of the national Capitol, and the oath of office is administered, generally by the chief justice of the Supreme Court, in the presence of a multitude of people. The Bible is used in the administration of the oath, and the President kisses the open page of the book. The inauguration of the Vice President takes place in the Senate chamber just prior to the inauguration of the President. Both make inaugural addresses after taking the oath.

Sec. 2, Clause 1. — *The President shall be commander-in-chief of the army and navy of the United States, and of the militia of the several States when called into the actual service of the United States; he may require the opinion, in writing, of the principal officer in each of the executive departments, upon any subject relating to the duties of their respective offices; and he shall have power to grant reprieves and pardons for offenses against the United States, except in cases of impeachment.*

Military Power of the President. — There would be a lack of unity in action if the entire military power of the nation were not in the hands of one person. The President of the United States is, under the Constitution, commander in chief of the army, the navy, and the militia

of the several states when called into actual service of the United States. This power naturally belongs to the President, as it is his duty under our Constitution to execute the laws, repel invasions, and suppress insurrections, and it would not be right to require a national duty of him without giving him the national power to execute it. The President may take the field in person and conduct military operations should he so desire. However, this is not expected; neither would it be best for the nation for him to do so.

No other officer in the world has as much power as the President of the United States in time of war, when he uses what are called " war powers." Through these powers he governs territory taken in war until Congress acts concerning it. The Supreme Court in 1901 decided that some parts of the Constitution, such as the President's authority, apply at once in respect to conquered or otherwise recently acquired territory while others do not apply until Congress so decrees.

Reprieves and Pardons. — The power to reprieve or pardon is given to the President in order to guard against any injustice of the law. False testimony may enter into a trial and lead to an unjust conviction. The nature of the testimony may afterward be discovered and a reprieve or pardon granted by the President in order to secure justice to the accused. A reprieve suspends the execution of a sentence for a given time. The President cannot exercise this power in case of impeachment.

The Heads of Executive Departments. — The language of the Constitution evidently implies the power of Congress to organize executive departments, but nowhere in the Constitution is it specifically mentioned as a power belong-

ing to Congress. This section declares that the President "may require the opinion, in writing, of the principal officer in each of the executive departments upon any subjects relating to the duties of their respective offices." The heads of the departments are also referred to in the following clause, and, with these exceptions, no mention is made of the executive departments in the Constitution. The cabinet is composed of the heads of all the executive departments. We shall consider the executive departments under this clause.

The President's Cabinet. — All the executive duties of the nation are transacted by the President and his cabinet. The chief executive is held responsible for all executive action, and it is right for him to have close and confidential relation with the officers of his official family. All questions of importance and of public nature are presented to him by the officers of the different departments before they are acted upon, and when questions of national importance are to be discussed, these discussions take place in regular meetings where the entire cabinet is present. The chief executive can act, if he desires, independently of any member of the cabinet, or of the entire cabinet, as its action is merely advisory. All the heads of the executive departments are appointed by the President by and with the advice and consent of the Senate. The salary for all cabinet officials was placed at $12,000 per annum in 1907, where it still remains.

Congress has by law established the following ten departments: —

The Department of State.

The Department of the Treasury.

The Department of War.

The Department of the Navy.
The Department of the Post Office.
The Department of the Interior.
The Department of Justice.
The Department of Agriculture.
The Department of Commerce.
The Department of Labor.

The heads of these departments are the members of the cabinet and are in a sense representatives of the President, who in matters of administration carries out through them his policies as agreed upon. They are frequently sent to make addresses, and it is arranged that they are often invited to banquets and important gatherings to express the views of the President on matters of public policy. These views, as well as those expressed directly by the President himself, are discussed by the country at large, and the President is no doubt influenced by the manner in which they are received.

Department of State. — The secretary of state is the highest cabinet officer, and is usually regarded as occupying a position next in importance to that of the President of the United States. The entire business of our government with foreign governments is transacted through his department, and foreign diplomacy is his most important work. The secretary prepares state papers, issues proclamations in the name of the President, conducts the correspondence with foreign nations, has charge of the archives of the government, and is responsible for the safekeeping of the original copies of every law, treaty, and official document. He is also custodian of the great seal of the United States of America and has under his direction the entire diplomatic corps. Besides this, he issues pass-

ports to citizens who desire to visit foreign countries; presents the ministers of foreign governments to the President of the United States; and conducts the correspondence between the President and the governors of states. There are three assistant secretaries of state.

The Diplomatic Services. — Diplomatic representatives of any government have special privileges and immunities in the countries to which they are sent. They are in no sense amenable to the local jurisdiction of the law, while their houses and papers must be guarded and kept sacred. This protection applies, with few exceptions, to their families and even their suite. The diplomatic representatives of the United States are divided into four classes: —

Ambassadors.

Envoys Extraordinary and Ministers Plenipotentiary.

Ministers Resident.

Chargés d'Affaires.

Ambassadors are now sent to the more important countries of Europe and America, — such as Austria-Hungary, Germany, Great Britain, France, Italy, Russia, Spain, Turkey, Mexico, Brazil, Argentina, Chile. They are ministers of the highest rank. Their duties are to represent the United States in all diplomatic functions, safeguard its interest, protect its citizens, and cultivate good feeling. The length of their term of office is not fixed by law but is determined by the President's will in the matter. The ambassadors receive $17,500 annually.

Envoys extraordinary and ministers plenipotentiary are next to the ambassadors in rank and receive from $10,000 to $12,000 annually. They are sent to about thirty governments, their duties being similar to those of the ambassadors.

Ministers resident are inferior in rank to envoys extraor-

dinary and ministers plenipotentiary. Chargés d'affaires stand next to ministers resident in rank. These titles are rarely used now in our representations abroad.

The Secretary of Legation. — This officer is the secretary to an embassy. There are generally two or three of these clerks attached to each foreign office. During an interval, when on account of death there is no minister, the first secretary of legation attends to the country's business.

Consuls. — Consuls are the government's commercial agents and are located in different parts of the world. They have many duties to perform. President Harrison, in writing about these duties, said: —

"He is the protector and guardian of American commerce; provides for destitute American sailors and sends them home; takes charge of the effects of American citizens dying in his jurisdiction and having no legal representative; receives the declarations or protest of our citizens in any matter affecting their rights; keeps a record of the arrival and departure of American ships and of their cargoes, and looks after vessels wrecked."

Since the chief duties of consuls relate to commercial affairs abroad, it seems, it would be better to have the whole consular service a part of the department of commerce, rather than the department of state, and there is a growing demand for this change. Consuls receive a salary of from $1000 to $5000. There are a few consuls general-at-large, about sixty consuls-general appointed by the United States at the larger cities of the world, who are assisted by more than two hundred and fifty consuls and many consular agents who receive from $2000 to $12,000 in salaries. With the exception of the consular agents who are paid by the fees, all fees are collected and paid into the

treasury. Since 1906, the consular service has been under the civil service act. Most nations guarantee by treaty that consuls shall be free from arrest, and that consular papers shall be preserved in safety.

Department of the Treasury. — The secretary of the treasury is at the head of the treasury department. The plan of its organization was worked out and put in operation by Alexander Hamilton. Webster, in speaking of Hamilton's great work and his financial ability, said: "He smote the rock of national resources, and abundant streams of revenue gushed forth. He touched the dead corpse of public credit, and it sprang upon its feet." National strength and independence depend upon national revenue as well as on other things. Governments, like individual enterprises, require financial foresight, thought, business management, and integrity to handle properly their financial affairs and establish a national confidence and credit. A department of the treasury was organized in 1775. In 1781 a finance department was created; in 1789 the present department was created.

Duties of the secretary. — It is the duty of the secretary of the treasury to prepare plans for the management and collection of all revenue; to maintain the public credit; to recommend methods of keeping public accounts; and to authorize the issuing and payment of all warrants according to appropriations made by law. It is his duty to make regular reports of the financial condition of the government and to make such recommendations to the President concerning it as he may deem proper; also, to keep the President informed concerning all questions of importance connected with the treasury department. As he is a member *of the President's* cabinet, and has under his supervision a

part of the work connected with the national executive department, it is his duty to give his best thought and labors to make the financial department reflect honor upon the nation and the administration of the President. All the government's receipts and expenditures pass through the treasury, making it the most elaborate, far-reaching, and complex of all cabinet departments. There are three assistant secretaries of the treasury.

Other officers of the treasury department. — There is a comptroller, whose duty it is to decide appeals from the decisions of the auditors; also, to collect debts due the government, and prescribe forms of keeping all public accounts except those of the post-office department.

There are six auditors who scrutinize all accounts of the government. The one known as the first auditor checks up all the accounts for the treasury department; the second auditor is assigned to the war department; the third auditor, to the interior department; the fourth, to the navy and the fifth, to the state and other departments, excepting the postal service. The sixth auditor is assigned to the post-office department, where he looks after accounts and contracts, and has the largest corps of assistants of any accounting officer connected with the government.

The *comptroller of the currency* has charge of the supervision of national banks. Under the federal reserve act of 1913, the comptroller of the currency is made a member of the federal reserve board as elsewhere noted, and accordingly receives an additional salary. The salary of the comptroller is $13,000 annually.

The *treasurer* has direct charge of all the money of the United States, receiving it and paying it out upon the warrant of the secretary of the treasury, countersigned by

the comptroller. There are assistant treasurers in charge of the subtreasuries at Boston, New York, Philadelphia, Baltimore, Cincinnati, Chicago, St. Louis, New Orleans, and San Francisco.

The register of the treasury signs all paper money and bonds of the government; also, transfers of money from the treasury to any other depository.

The bureau of engraving and printing engraves the plates and prints the paper notes, bonds, and stamps for the government. Nearly two thousand persons are employed for this work.

The solicitor is the attorney for the treasury department. He prosecutes counterfeiters and violators of the customs laws, and helps collect debts due the government except those due under the excise laws.

The bureau of internal revenue collects the excise taxes and enforces the internal revenue laws. It has many district supervisors and agents.

In addition to the more important officers mentioned above connected with the treasury department there are many minor officers, such as the director of the mint, and the superintendent of the life saving service, which service has men stationed at dangerous places along the coasts and on the Great Lakes to aid in saving life.

Department of War. — The war department was organized August 7, 1789. The secretary of war is at the head of this department. Congress provided for an assistant secretary in 1890. The law defining the secretary's duty reads: "The secretary of war shall perform such duties as shall from time to time be enjoined on or intrusted to him by the President relative to military commissions, the military forces, the warlike stores of the United States, or to other

matters respecting military affairs; and he shall conduct the business of the department in such manner as the President shall direct." The secretary of war represents the President in the capacity of commander in chief of the army. Since 1903, there is a general staff, the chief of which is an army officer, named by the President for a term of four years, who has control of the troops of the whole army, as well as general supervision over the nine administrative bureaus of the war department given below: —

Office of the Adjutant General.
Office of the Inspector General.
Office of the Judge-advocate General.
Office of the Chief of the Quartermaster Corps.
Office of the Surgeon General.
Office of the Chief of Engineers.
The Ordnance Office.
The Signal Office.
Bureau of Insular Affairs.

The nature of work done in each division can be readily seen from the title of the office.

The Military Academy. — The military academy, located at West Point, New York, is under the supervision of the war department. It was established by the government in 1802. The object of this school is to educate officers for the army. The cadets at the academy are appointed, one from each congressional district, on the recommendation of the congressman from that district; two from each state at large, recommended by the senators; and forty from the United States at large, generally after a competitive examination; one from each territory; one from the District of Columbia; and one from Porto Rico. Recommendations are made by the secretary of war, but all are appointed by

the President of the United States. Appointees to the academy must be not less than seventeen nor more than twenty-two years of age. The entire expense of the academy is met by the government. A cadet is allowed $709.50 annually, which pays all his expenses, and on graduation at the end of four years' study, is commissioned second lieutenant in the regular army, with a salary of $1700 a year.

Department of the Navy. — The navy department was established by an act of Congress in April, 1798. The secretary of the navy is at the head of this department. The law says: "The secretary of the navy shall execute such orders as he shall receive from the President relative to the procurement of naval stores and materials, and the construction, armament, equipment, and employment of vessels of war, as well as all other matters connected with the naval establishment."

Bureaus. — The naval department has many bureaus with naval officers at their heads. These officers are appointed by the President and confirmed by the Senate. The bureaus are as follows: —

Bureau of Navigation.
Bureau of Yards and Docks.
Bureau of Ordnance.
Bureau of Construction and Repair.
Bureau of Steam Engineering.
Bureau of Medicine and Surgery.
Bureau of Supplies and Accounts.

The principal men in these bureaus are officers of the United States Navy. The legal adviser to the navy is called the judge-advocate general.

The Naval Academy. — The naval academy at Annapolis

is under the supervision of the secretary of the navy. The government pays for maintaining this school for the training of naval officers. It sustains the same relation to the navy that the military academy does to the army. Students at entrance must be between sixteen and twenty years of age. Two cadets are allowed for each member of Congress and territorial delegate, two from the District of Columbia, and five at large. The secretary of the navy appoints the naval cadets on the recommendation by congressmen and senators, except the members at large, who are appointed by the President. Four years are spent at the academy, then two years at sea. During these six years a cadet receives $600 a year.

Post Office Department. — The post office department was established in 1789, but the postmaster general was not made a member of the cabinet until 1829. The postmaster general has the general superintendence of all matters connected with the carrying of mails and the establishment and management of post offices; also, the power to appoint postmasters whose salaries are less than $1000 per annum. The President appoints those who receive $1000 or more. The postmaster general is ably assisted in the management and execution of the heavy duties of this department by the first, second, third, and fourth assistant postmasters general, and by many officers, superintendents, and clerks.

Mailable matter is divided into four classes: The first class consists of letters, postal cards, and everything that is sealed; the rate of postage is two cents per ounce or fraction thereof. Second-class matter consists of newspapers and other periodicals issued as often as four times annually; the rate of postage for publishers is one cent a pound or fraction thereof, but for other than publishers, one cent

for each four ounces. Third-class matter consists of printed matter not admitted to second class, as books and circulars; the rate of postage is one cent for each two ounces. Fourth-class matter consists of merchandise and all matter not included in the other three classes; the rate of postage varies with the weight and the distance carried. The United States is a member of the Universal Postal Union, comprising nearly all the civilized nations. This allows uniform postal rates, and the facilities for handling mail in these countries are guaranteed to all members.

The Department of the Interior. — This department was established in March, 1849. The secretary of the interior is the head of this department. An assistant secretary and many subordinate officers and clerks are employed in this department, but all are under the general supervision of the secretary of the interior, who is charged with the supervision of public business relating to the following important matters: —

Public lands. — The commissioner of public lands has charge of all public lands and surveys. The public lands now remaining unappropriated and unreserved aggregate about 700,000,000 acres.

Pensions. — The commissioner of pensions is at the head of the pension service. He has supervision of the granting and paying of pensions to soldiers. In recent years these pensions have amounted to about $150,000,000 annually, and an act passed in 1912 greatly increases this sum.

Indian affairs. — The commissioner of Indian affairs supervises Indian reservations and schools.

Patents. — The patent office is presided over by a commissioner and an assistant commissioner, who register patents, examine into claims, and decide controversies about them.

Education. — The commissioner of education is at the head of a bureau that collects and publishes information on educational matters.

Department of Justice. — The attorney general is at the head of the department of justice. He is the chief law officer of the government; acts as legal adviser for all the departments; also, renders written opinions concerning points of law when so requested by the President, and acts as the attorney for the United States in all cases it may have in the Supreme Court. He makes an annual report of the work of the department to Congress. It is his duty to examine the title of all lands the government proposes to buy for sites for public buildings, arsenals, dockyards, and post offices. The United States district attorneys and marshals are under his supervision.

The attorney general has many assistants. A solicitor and an assistant solicitor of the treasury, a solicitor of internal revenue, solicitors for the state department and other departments, and many clerks also belong to the department of justice.

Department of Agriculture. — This department was permanently organized and its head secretary made a cabinet officer in 1889. Prior to this time there was a "department of agriculture," which was one of the bureaus of the department of the interior. This department offers the people an opportunity to obtain useful knowledge concerning agriculture and agricultural products. It distributes seeds of many varieties among the farmers and conducts experiment stations and farms in every part of the country. It has under its supervision the forestry service, the weather bureau, the bureau of animal industry, the bureau of plant industry, the bureau of chemistry, and other divisions and

bureaus devoted to agricultural science. The department of agriculture is now busily engaged in furnishing expert direction to farmers and fruit growers of the United States; also, it has done much good in organizing in the rural schools, particularly in the South, boys' corn-growing clubs, and girls' canning societies.

Department of Commerce. — The department of commerce and labor was created in 1903, and ten years later was divided into two departments. Many of the bureaus and divisions of the government's works were transferred to this department from other departments. The department of commerce has under its charge mining, manufacturing, shipping, and the general promotion of trade interests. The census, fisheries, lighthouses, standards, corporations, foreign and domestic commerce bureaus, are all in the charge of the department of commerce.

Department of Labor. — The duty of this department is to foster, promote, and develop the welfare of the toiling masses of the United States; to improve their working conditions, and to advance their opportunities. From 1903 to 1913 it was part of the department of commerce and labor. In 1913 the separate department of labor was given charge of the bureaus of immigration, of naturalization, of labor statistics, and of the newly created children's bureau. The children's bureau was created in 1912 to investigate and report upon all matters pertaining to the welfare of children; especially to inquire into the questions of infant mortality, the birth rate, dangerous occupations, and legislation affecting children in the several states and territories.

Minor Executive Departments. — The President appoints an interstate commerce commission which regulates rates

of common carriers. This has been discussed in Chapter IX. The President also appoints the civil service commission, whose work is discussed below.

The *public printing office* is a minor branch of the executive service. The public printer appointed by the President, and confirmed by the Senate, appoints all his officers and employees under civil service rules.

The Civil Service Commission. — The appointive power for all important United States officials, for which other provision is not definitely provided, rests with the President, and cannot be taken from him. However, in Article II, Section 2, Clause 2, it is provided that the Congress may by law vest the appointment of such inferior officers as they think proper, in the President alone, in the courts of law, or in the heads of departments. The spoils system, as it is known, meaning the turning out of all officials without cause or reason other than political every time the parties changed in government, held sway in the nation until about 1883.

Attempt at reform legislation. — There was so much evil connected with this rotation in office, that in 1868 Congress finally authorized the President to establish and execute, through a civil service commission, such rules and requirements for appointees as he might desire for the public welfare. President Grant, anxious to yield some of his power, established the commission. It was in force until 1874, when Congress, which was not yet weaned from the spoils system, stopped the appropriation for the commission.

The Pendleton Act. — A great amount of "graft" and disorder coming to light during the Grant and Hayes administrations, and the assassination of President Garfield by a disappointed office seeker, combined to make a demand on Congress to reform the law of appointment of minor

United States officials. In 1883 the civil service law, generally called the Pendleton Act, was passed. It established a civil service commission to be composed of three members, not more than two of whom should be of the same political faith; the commission to be appointed by the President. Examinations are held under the supervision of the commission ordinarily twice a year, in the departments at Washington, and in customhouses and post offices, where at least as many as fifty officers are employed in conducting such offices. When a vacancy occurs, the names of three persons who have taken the examination and are highest on the per cent list, are submitted, and one of them is chosen; unless it should be found that none of them is eligible, in which case three others are called for. The position is given to the one on the list having the highest grade, who is given a six months' trial before permanent appointment.

Who may be appointed. — It should be clearly understood that political creed has nothing to do with the appointments under the civil service act. According to the plan as intended appointments are to go to the states according to population; but this is impracticable, because the appointees from a great distance often will not go to Washington where most of the positions are, for the small salaries paid; hence, states nearest the capital get most of the positions. In 1909, a law was passed providing that appointees must have taken their examinations in some one of the states where they had lived for one year prior to accepting a position. This was intended to prevent candidates in Washington from getting the majority of places. The civil service law does not apply to positions when the *consent of the* Senate is required; nor does it extend to

unskilled labor. The act has been extended by several Presidents, to embrace many classes of officials not included in the first law, the last important extension being fourth-class postmasters, but offices may be withdrawn by an unfriendly President. The civil service commission publishes the prescribed rules and the qualifications necessary, before each examination, so that any one interested in any vacancy or position, may find out what is necessary to get it, or to get on the waiting list for it or any similar position. The classified service has been extended until it now includes the departmental service in Washington, and positions in the post offices, the customhouses, the railway mail service, the Indian office, internal revenue service, and government printing office.

Results. — Under the law of 1897, no one appointed under the competitive examination of the civil service system may be removed without written charges, and the accused must have opportunity for defense. This was modified in 1905, so that the President or the head of an executive department may remove an official without a hearing in his defense; however, the cause of removal must be stated in writing and filed. The great results are better qualified and more competent men; better public service; fewer blunders, due to the inexperience existing under the spoils system; and the freeing of the President and heads of departments at Washington from annoyance due to hordes of petty office seekers, and thus enabling them to use their time for more important work. Some evils have crept into the system, and some objections may be urged against it, but its improvement over the spoils system far surpasses all of its objectionable features. Over 260,000 employees in the federal service are now under the classified service rule. Of

the 411,322 civil officers and employees of the United States government in 1912, only about 11,000 were appointed directly by the President. The numbers given do not include officers and men in the army and navy.[1]

Sec. 2, Clause 2. — *He shall have power, by and with the advice and consent of the Senate, to make treaties, provided two-thirds of the senators present concur; and he shall nominate and, by and with the advice and consent of the Senate, shall appoint ambassadors, other public ministers and consuls, judges of the Supreme Court, and all other officers of the United States, whose appointments are not herein otherwise provided for, and which shall be established by law; but the Congress may by law vest the appointment of such inferior officers as they think proper, in the President alone, in the courts of law, or in the heads of departments.*

Treaties. — A treaty is a solemn agreement between two nations. The President, with the "advice and consent" of the Senate, has power to make treaties, provided two thirds of the senators present concur. Black's "Constitutional Law" says: "This power embraces the making of treaties of every sort and condition; for peace or war; for commerce or territory; for alliance or success; for indemnity; for injuries or payment of debts; for the recognition and enforcement of principles of public law; for the regulation of immigration and the rights of aliens; for rules of navigation; for arbitrations; and, in short, for all the varied purposes which the policy or interests or independent sovereigns may dictate in their intercourse with each other."

Terms of a treaty. — The terms of a treaty are usually first negotiated by ministers or ambassadors appointed by the countries interested. After an agreement is reached,

[1] Senate Document, No. 836.

the President turns the matter over to the Senate which considers it in an executive session with closed doors. The Senate having ratified the treaty the President signs it. When the treaty requires the appropriation of money, the House of Representatives is generally consulted. It is doubted by some whether a treaty requiring the appropriation of money could be enforced without the consent of the House. Chancellor Kent, in speaking of this point, says: "If a treaty be the law of the land, it is as much obligatory upon Congress as upon any other branch of government or upon the people at large, so long as it continues in force and unrepealed." Congress has been consulted by the President in each of the great purchases of territory.

Nominations to Office. — Ambassadors, public ministers, consuls, federal judges, and other officers of the United States are nominated in writing by the President. The Senate has no right to make the nomination, but it can confirm or reject the nomination made by the President. If the nomination of the President is rejected, he has the right to make another. The advantage of this method of appointment is set forth by Mr. Hamilton in the following words: "The blame of a bad nomination would fall upon the President singly and absolutely. The censure of rejecting a good one would be entirely at the door of the Senate, aggravated by the consideration of their having counteracted the good intentions of the Executive. If an ill appointment should be made, the Executive for nominating, and the Senate for approving, would participate, though in different degrees, in the opprobrium and disgrace."

Other Officers. — We have seen that under the Constitution, ambassadors, public ministers, and judges of the Supreme Court must be nominated by the President and

confirmed by the Senate. Congress, however, is given the power to enact laws to regulate the appointment of "inferior officers." Various provisions and methods for the appointment of federal officers not named in the Constitution have been made by Congress. If the filling of any federal office, however small, should not be provided for by Congress, it would be the duty of the President and the Senate to make an appointment. Cabinet officers are not inferior officers; hence are appointed by the President and the Senate.

Removal from Office. — The President has the power to remove an officer and make a temporary appointment while the Senate is not in session. When the Senate meets, the newly appointed officer's name comes before that body, but if the Senate refuses to confirm the new nomination, the President will send the name of another. The President's power of removal now is unlimited.

Sec. 2, Clause 3. — *The President shall have power to fill up all vacancies that may happen during the recess of the Senate, by granting commissions which shall expire at the end of their next session.*

Vacancies may occur when the Senate is not in session, and the President has a right under these circumstances to issue commissions filling the vacancies until the end of the next session of the Senate.

Sec. 3, Clause 1. — *He shall from time to time give to the Congress information of the state of the Union, and recommend to their consideration such measures as he shall judge necessary and expedient; he may, on extraordinary occasions, convene both Houses, or either of them, and in case of disagreement between them with respect to the time of adjournment, he may adjourn them to such time as he shall think proper; he shall receive*

ambassadors and other public ministers; he shall take care that the laws be faithfully executed; and shall commission all the officers of the United States.

The President's Message. — It is customary for the President, at the beginning of each session, to send a message to Congress containing a condensed report of the executive departments and general "information of the state of the Union." It is also his duty, in submitting his message to Congress, to recommend such legislation as he deems advisable and expedient and of general interest to the nation. When a special session of Congress is called, he sets forth, in his message addressed to this session, reasons for assembling Congress and makes such recommendation as he may deem proper. He has no power to call an extra session except on extraordinary occasions, which, in his judgment, require immediate attention. Washington and Adams delivered their messages in person. Jefferson and his successors for many years did not attend sessions of Congress, but sent messages and special communications to it in writing. President Woodrow Wilson, however, delivered his messages to the sixty-third Congress in person, thus breaking a precedent of over a century.

Adjournment of Congress. — In case the Senate and the House of Representatives disagree as to a time for adjournment, the President may adjourn Congress to such a time as he may deem proper, but he never exercises the right. The House of Representatives has never been convened alone, but the Senate frequently meets alone at the request of the President to confirm nominations of officials and consider treaties.

Reception of Ministers. — Ambassadors and other public ministers present their credentials to the secretary of state,

who goes with them to the White House and presents them to the President. Reception of a foreign minister is a recognition of the country from which he comes as "belonging to the commonwealth of nations." A refusal to recognize a minister of an independent sovereign nation, would be considered an insult, and would lead to strained and dangerous international relations. Foreign governments almost invariably quietly ascertain whether a certain man will be acceptable to our government before they publicly announce his appointment as a representative, and our country takes the same precaution abroad. A minister may be personally offensive to our government, may have meddled in our national affairs, as did Lord Sackville-West, who was ordered from the United States in 1888; or he may have a political record incompatible with our institutions. Any of these reasons would cause our government to refuse an ambassador, or send him away after receiving him.

Execution of the Laws. — It makes no difference whether the President believes a law to be just or unjust, it is his duty to enforce it. The execution of the laws is the most important duty imposed upon the chief executive, and he depends upon his agents and officials all over the nation to attend to their official duties to that end. Should local federal officers, such as United States marshals, be unable to enforce federal law, the President must use the army and navy.

Article II, Section 4. — *The President, Vice President, and all civil officers of the United States shall be removed from office on impeachment for, and conviction of, treason, bribery, or other high crimes and misdemeanors.*

Article I, Section 2, Clause 5. — *The House of Representatives shall choose their speaker and other officers, and shall have the sole power of impeachment.*

Sec. 3, Clause 6. — *The Senate shall have the sole power to try all impeachments. When sitting for that purpose, they shall be on oath or affirmation. When the President of the United States is tried, the chief justice shall preside; and no person shall be convicted without the concurrence of two-thirds of the members present.*

Section 3, Clause 7. — *Judgment in cases of impeachment shall not extend further than to removal from office, and disqualification to hold and enjoy any office of honor, trust, or profit under the United States; but the party convicted shall nevertheless be liable and subject to indictment, trial, judgment and punishment, according to law.*

Article II, Section 2, Clause 1. — *The President shall . . . have power to grant reprieves and pardons for offenses against the United States, except in cases of impeachment.*

Impeachment. — The various articles bearing on impeachment have been considered elsewhere in their regular order, but everything in the Constitution on the subject is here arranged so that the student may see it all at a glance.

Impeachment originated in England in the fourteenth century. The language, "other high crimes and misdemeanors," is not very clear, and our method of determining guilt is slow and clumsy. The House of Representatives is the prosecutor, and the Senate, with the Vice President presiding, unless the President is on trial, is the judge and jury. Conviction can be only by a two-thirds vote: a strong safeguard against party prejudice, and the excited clamors of the hour. While resting under impeachment charges, and even during his trial, the official may go on with the duties of his office. The Constitution does not define clearly who are "civil officers," but members of Congress and military and naval

officers are punished for official misconduct in other ways, so they would probably be the only exceptions among United States officials. There have been, in all, nine federal impeachment cases up to the present time; eight have come to trial, resulting in only three convictions. The most notable case was that of President Andrew Johnson, who was acquitted by lack of one vote. Of the three convictions, two were district judges, and the third (in 1913) was a judge of the commerce court. Minor officials, when misconduct seems evident, are generally asked to resign.

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Source Material and Supplementary Aids. — Calls for national conventions. Party platforms. Campaign textbooks. The list of electors chosen in your state. Ballots with all presidential candidates and state officers upon them. Copies of presidential messages. Veto messages. Civil service laws and regulations, with examination *questions*. Copies of treaties and consular reports.

SUGGESTIVE QUESTIONS

1. Why is the executive power of the United States vested in only one man?

2. How are electors nominated? How elected? Why was this plan of choosing the President adopted? Has it worked well? Why?

3. How many electors has your state? How do the political parties, as a rule, divide the popular vote in your state?

4. How did the Twelfth Amendment change the manner of electing Presidents?

5. Why would not a direct vote and a popular majority be a good way to choose the President?

6. Give examples when unusual conditions prevailed in the election of the President. How settled?

7. What is meant by a minority President?

8. In case of death or impeachment of the President, how is he succeeded?

9. How is the President nominated? How many votes does your state have in a national convention? Why?

10. Has the President's power increased or decreased since 1789? Should it be increased? Why?

11. Should cabinet positions ever be made elective? Why? Should cabinet members sit in Congress, but without a vote? Why?

12. Examine the duties of each cabinet department.

13. Wherein is the spoils system bad? Do Presidents like civil service reform measures? Why?

14. Why would our department of state be better named the department of foreign affairs?

15. If there is doubt about what a law means, who advises the President? May the President enforce his own interpretation? Why?

QUESTION FOR DEBATE

Resolved, That the Constitution should be amended so that a President should be elected for a term of six years and be ineligible for reëlection.

CHAPTER XIII

THE FEDERAL JUDICIARY

Article III, Section 1. — *The judicial power of the United States shall be vested in one Supreme Court, and in such inferior courts as the Congress may from time to time ordain and establish. The judges, both of the Supreme and inferior courts, shall hold their offices during good behavior, and shall, at stated times, receive for their services a compensation, which shall not be diminished during their continuance in office.*

Dignity of the Judiciary. — It is easy to belittle the dignity, importance, and independence of the national judiciary and offer various and dangerous methods of reconstructing it, because the Supreme Court or some other federal court fails to construe the law in accordance with our individual views. The very fact that men differ in construing the meaning of the law makes a national interpreting power of federal jurisdiction an essential and natural part of the organic law of our land. The principle that made government a necessity and that justifies the national Constitution, is the same principle upon which the national judicial system is built. Webster, in speaking of the national judiciary, said: " The Constitution without it would be no Constitution, the government no government." It is a known fact that the greatest men in American history have been strong and patriotic advocates of the national judiciary. Washington wrote James *Wilson as follows:* —

"Considering the judicial system as the chief pillar upon which our government must rest, I have thought it my duty to nominate for the high offices in that department such men as I conceive would give dignity and luster to the national character."

Jefferson said: —

"The dignity and stability of government in all its branches, the morals of the people, and every blessing of society depend so much upon an upright and skillful administration of justice, that the judicial power ought to be distinct from both the legislative and executive, and independent of both, so that it may be a check upon both, as both should be checks upon it."

Necessity of a Judiciary. — It would be useless to make laws unless there was a judiciary to interpret and apply them. Without a national judiciary every state would make its own interpretation and application of the federal laws, and this condition would necessarily lead to serious misunderstandings and great wrongs. Aware of the difficulty of obtaining justice under the Articles of Confederation, the framers of the Constitution were not slow in providing for an independent judiciary easily accessible to the people, in order that justice might be done.

Federal Courts. — The Constitution specifies definitely the Supreme Court, and gives Congress the power to create and organize other federal courts. The federal courts of the United States, as now named in the regular order given them in the recent revised and amended codification, designated the "Judicial Code" which took effect January 1, 1912, are[1]: —

District Courts.

Circuit Courts of Appeals.

[1] See Public Document No. 475 — An act to codify, revise, and amend laws relating to the judiciary.

Court of Claims.
Court of Customs Appeals.
Commerce Court.[1]
Supreme Court.

The following minor special courts have been created by Congress, and as will be noted, they are entirely different in the scope of their jurisdiction from those named: Courts of the District of Columbia, territorial, and insular.

The courts will be considered from the standpoint of their organization and as they are named in the Judicial Code.

The District Court. — This court was organized in 1789. The country was originally divided into thirteen districts. There are now about eighty. Each constitutes one district or is divided into two or more districts. The maximum number of districts in any one state is four. If a state has only one district court, the code specifies where the judge shall hold court and when; if the state has more than one district court, each district is expressly specified as to the number of counties included, and when and where the court shall be held. One judge, called a district judge, presides over each district created, except that in some districts additional judges are assigned, and in a very few cases one district judge presides over two districts. Congress creates new district courts whenever it is deemed necessary, and there are now (1914) about one hundred district judges. Every district judge must reside in the district for which he is appointed. He receives a salary of $6000 a year, and he has the right to appoint a clerk, who appoints his own

[1] In 1910 there was created a new federal court of record known as the commerce court. It was created expressly to consider appeals from the interstate commerce commission. It was abolished by an item in the urgent *deficiency* bill which became a law in 1913.

assistants, and a crier. A marshal is appointed for each district court, whose duties are to execute the decrees of the court, to select men for the grand and other juries, and to act as an agent of the executive part of the government. There is also a district attorney who prosecutes and defends in the federal courts all suits to which the United States is a party. The marshal and district attorney are both appointed by the President and confirmed by the Senate.[1]

The Circuit Courts of Appeals. — These courts were organized in 1891 on account of the crowded docket of the Supreme Court. The United States is divided into nine judicial circuits, each having a circuit court of appeals, consisting usually of three judges. Several circuit judges are appointed for each circuit. The salary is $7000 a year, and the judges must reside within their circuits. In addition, the chief justice and the associate justices of the Supreme Court are allotted, one to each of the nine circuits. When necessary, also, one or more district judges within the circuit may help constitute the circuit court of appeals, but never may a district court judge sit in any case he has previously heard and passed judgment upon. The United States marshals for the several district courts are the marshals for the circuit court of appeals. Each court has its own clerks and assistant clerks. A term is held annually by the circuit court of appeals at a specified city on a specified date; also each year at two other places to be designated by the court itself, and additional terms may be added if it is deemed advisable. As its name indicates, this court

[1] The district courts may appoint United States commissioners in the vicinities in which they sit, to conduct preliminary hearings in criminal cases; also referees are appointed to hear preliminary proceedings in bankruptcy.

has only appellate jurisdiction. Its verdict is final on all appeals from the district court, except in cases of capital crime, and in a few specified civil cases where an appeal lies to the Supreme Court.

Courts of Special Jurisdiction. — Some special courts have been created by Congress to hear and adjudicate particular classes of claims and controversies. There are two such special tribunals exercising federal authority at present: the court of claims, and the court of customs appeals.

Court of Claims. — The court of claims was established in 1855. Prior to that date, persons having claims against the government could get justice only through petition to Congress. The court of claims consists of a chief justice and four judges appointed by the President and confirmed by the Senate. They hold office for life or during good behavior. This court holds one annual session at Washington, beginning the first Monday in December and continuing as long as may be necessary to dispose of its business. Any three of the judges constitute a quorum. The salary is $6500 for the chief justice, and $6000 each for the other judges. Senators, representatives, delegates, and resident commissioners to Congress are forbidden under heavy penalties to practice in the court of claims after their election and during their term of office. This is done to prevent undue pressure and fraud. Claims for damages or other dues may be submitted to this court by the departments of the government, or by either House of Congress. Aliens may present their claims against the United States in this court if from a government where citizens of the United States have the same privilege. No interest is allowed on claims up to the time of the judgment of the

court. Debtors to the government may have the amount due ascertained, and the attorney general represents the government to see that its interests are protected. All judgments of the court of claims are reported to Congress on the first day of every regular session, and it appropriates the money for payment. Appeals are allowed from this court to the Supreme Court on judgments against the government; also appeals by the plaintiff, where more than $3000 is involved. All such appeals must be filed within ninety days after the court of claim's decision.

Court of Customs Appeals. — The court of customs appeals was created to expedite the settlement of disputes arising from the collection of customs duties. It consists of a presiding judge and four associate judges, appointed by the President and confirmed by the Senate. The salary is $7000 each. The judge, designated as the "presiding judge" in the act, is so styled, and the associate judges shall have precedence according to the date of their commissions. Any three judges make a quorum; but if for some reason one or two of these judges should not be able to sit, the President may designate any qualified circuit or district judge to act in their places. The court of customs appeals is always open for business. It may sit in any of the judicial circuits of the country, as it may choose from time to time.

Supreme Court. — The Constitution specifically provides for the Supreme Court. This court consists of a chief justice of the United States and eight associates, any six making a quorum. The associate justices have precedence according to the dates of their commissions; if the latter bear the same date, then the precedence is according to their ages. If the chief justice should be unable to serve,

or if there is a vacancy in that office, his duties fall on the justice who is first in precedence, until the disability of the chief justice is ended or one is appointed. The chief justice receives a salary of $15,000 annually; and associate justices of the court, $14,500 each. This court holds a session at Washington annually, commencing on the second Monday in October and continuing as long as necessary, generally adjourning in May. The judges are the only civil officials of the United States who wear an official dress. The Supreme Court is the most original and likewise the greatest institution organized by the Constitution. Its creation is studied with wonder, and its achievements have won the admiration of the world.[1]

Minor Special Courts created by Congress. — The Congress of the United States is authorized to create inferior courts, and has practically supreme power in governing territory outside the limits of a state. The government of the District of Columbia and of our territories and insular possessions is treated elsewhere, but the courts will be discussed at this point briefly. These tribunals are wholly under the control of Congress but are ordinary law courts, and are not a part of the regular federal system of courts. In this class fall the courts of the District of Columbia, of the territories, and partly organized territories, and courts recently established in China and the Canal Zone.

Courts of the District of Columbia. — In the District of Columbia, there is a police court for the trial of petty offenses; there are justices of the peace for trivial civil

[1] **Circuit Courts.** — Until the new Judicial Code took effect, there were circuit courts of the United States. They were abolished January 1, 1912. All records of these courts, and all unfinished business filed therein, were *transferred to the* United States district courts.

cases; and a regular tribunal called the supreme court of the District. This court is composed of the chief justice and five associate judges. Over all there is a court of appeals, composed of a chief justice and two associate judges. All these judges except those for the minor courts are appointed by the President, as in the case of the regular federal courts. The judges of the minor courts of the district are under the appointment of boards created by Congress for the control of municipal affairs. Final decrees of the court of appeals in the District of Columbia, which hears appeals from the Supreme Court of the District only, may be appealed to the Supreme Court of the United States and affirmed or denied.

Territorial courts, Alaska. — The court of Alaska, which was created by an act of Congress in 1900, consists of three district judges appointed by the President and confirmed by the Senate, whose business is wholly with Alaskan affairs. Appeals and writs of error may be taken from this court to the circuit court of appeals for the ninth circuit which sits at San Francisco, Portland, or Seattle; appeals may also be taken from the Alaskan court to the Supreme Court of the United States.

Hawaii. — The judiciary of Hawaii is composed of a supreme court, with three judges; also such inferior courts as the territorial legislature may establish. The territory is a federal judicial district and has two district judges.[1] Writs of error and appeals may be taken from the district court of Hawaii to the United States circuit court of appeals; if a net sum of more than $5000 is involved appeals from the supreme court of Hawaii may be taken to the Supreme Court of the United States, and have the same status as appeals from the highest court of a state.

[1] Public Document No. 213, page 69.

The Philippines. — The Philippine Islands are divided into seventeen judicial districts or provinces, each having a court of first instance for criminal and civil affairs. There is also a supreme court, consisting of a chief justice and six associates for Philippine affairs, appeals from which may be taken to the Supreme Court of the United States when the United States is in any sense involved, or when property to the amount of $25,000 is concerned. The judges of the supreme court are appointed by the President of the United States. There are also the usual local minor courts, the judges of which are appointed by the governor of the Philippines.

Porto Rico. — The island of Porto Rico, whose status is that of a partly organized territory, has municipal courts, the judges of which are elected by the people; a supreme court, composed of judges appointed by the President of the United States, and a United States district court especially for Porto Rico. Appeals may be taken from the supreme court of the island to the Supreme Court of the United States, in any case where the United States is involved; also, whenever the sum involved is more than $5000.

Canal Zone. — In the act of 1912, providing for the government of the Canal Zone, provision was made for a district court with two divisions, but both presided over by the same judge. The jurisdiction of this court extends to all felony cases, causes in equity, admiralty, all cases involving sums exceeding three hundred dollars, and all appeals from judgments of the local magistrates' courts. The form of procedure of the district court in the Canal Zone is similar to that of a regular United States district court, and appeals from it are to the circuit court of appeals of the

fifth circuit of the United States. There is a district attorney and a marshal for the Canal Zone, and together with the judge, they are appointed by the President, with the consent of the Senate, for terms of four years each.

United States Court in China. — Since 1906, there has been established in China a United States court. Instead of trusting jurisdiction of all cases to our consuls, some of the more important ones are intrusted to a single judge appointed by the President for a term of four years. The establishment of this court on foreign soil is rather unusual, but our government does not consider the Chinese able to render justice, especially to foreigners.

Appointment, Tenure, and Salaries of the Federal Judiciary. — The Constitution specifically says that the President shall appoint the judges of the Supreme Court by and with the consent of the Senate; it does not say that other judges of the courts created by Congress shall be appointed by the President and confirmed by the Senate, but it has been so accepted by implication. All judges of the regular federal courts (Supreme, circuit, and district) hold office for life or during good behavior. They can be removed only by impeachment and conviction, which has rarely happened, since the federal judiciary has almost invariably been composed of high-minded, honorable men. To make the judiciary fearless and independent, Congress may increase the salaries of the judges from time to time as deemed necessary, but it cannot diminish them. This has proved a wise provision. When a judge of any court of the United States, seventy years of age or over, resigns his office after having served at least ten years continuously, he is paid his salary the rest of his life. The judges of the higher courts in the District of Columbia, and those of the

United States district courts in the territories and partly organized territories hold their positions on the same terms as do those of the regular federal judiciary.

Sec. 2, Clause 1. — *The judicial power shall extend to all cases, in law and equity, arising under this Constitution, the laws of the United States and treaties made, or which shall be made, under their authority; to all cases affecting ambassadors, other public ministers and consuls; to all cases of admiralty and maritime jurisdiction; to controversies to which the United States shall be a party; to controversies between two or more States; between a State and citizens of another State; between citizens of different States; between citizens of the same State claiming lands under grants of different States; and between a State or the citizens thereof, and foreign States, citizens or subjects.*

Cases. — The Constitution names in a specific way the nature of the cases that must be tried before the federal courts. This makes certain a uniform interpretation of the law governing each case. A case " is a subject on which the judicial power is capable of acting and which has been submitted to it in a manner required by law." Courts can do nothing until cases are regularly brought before them, and when this is done, it is their duty to interpret and apply the law governing each case and decide the controverted question according to law. In brief, the federal courts deal first, with the laws of the United States; state statutes if thought contrary to the federal Constitution; and treaties and admiralty affairs; and second, with matters of such a nature as only United States courts can settle, such as a question between two states, or between a foreign country and a state.

Cases in law and equity. — These cases include both *civil and criminal* proceedings arising under the Constitu-

tion, the laws, or the treaties of the United States. Mr. Hamilton says:

"It is the peculiar province, for instance, of a court of equity to relieve against what are called hard bargains. These are contracts in which, though there may have been no direct fraud or deceit sufficient to invalidate them in a court of law, yet there may have been some undue and unconscionable advantage taken of the necessities or misfortunes of one of the parties, which a court of equity would not tolerate. In such cases, where foreigners were concerned on either side, it would be impossible for the federal judicatories to do justice without an equitable, as well as a legal, jurisdiction. Agreements to convey lands claimed under the grants of different states may afford another example of the necessity of an equitable jurisdiction in the federal courts."

Whenever a treaty is violated, matters must be adjusted by a federal court.

Chisholm v. *Georgia.* — The clause relating to controversies between a state and citizens of another state early in 1793 caused trouble. The Supreme Court in the case of Chisholm *v.* Georgia said that a citizen might sue a state and granted Chisholm of South Carolina a claim against Georgia. Georgia protested bitterly, and as a result the Eleventh Amendment became a part of the Constitution. It specifically asserts that a state cannot be sued by a citizen of another state in any federal court.

Sec. 2, Clause 2. — *In all cases affecting ambassadors, other public ministers and consuls, and those in which a State shall be party, the Supreme Court shall have original jurisdiction. In all the other cases before mentioned, the Supreme Court shall have appellate jurisdiction, both as to law and fact, with such exceptions, and under such regulations as the Congress shall make.*

Jurisdiction. — Jurisdiction is the right of a court to hear a case and interpret and apply the law governing it. The court that first tries the case has original jurisdiction. A court has appellate jurisdiction when the case may be brought to it after having been first tried in some inferior court. A court has exclusive jurisdiction, when a case to be decided by it cannot be tried in any other court. The jurisdiction of the several federal courts will be given in the order used in discussing their organization.

District courts. — The district courts have jurisdiction over the crimes and violations of federal laws. A person guilty of counterfeiting money or violating any postal laws would be tried in these courts. They have also original jurisdiction in bankruptcy proceedings; violation of national banking laws; of the cases arising under internal revenue collection; all suits under patent, copyright, and trademark laws; suits on the regulation of commerce; suits against consuls and vice consuls; in short, in all crimes and offenses cognizable under the authority of the United States, and of suits of a civil nature arising under the federal Constitution, laws, and treatise. They also have jurisdiction of any civil case between citizens of different states, if the plaintiff chooses to bring his case to the federal courts. Such cases are generally brought in the courts of the state where the defendant resides.

The Circuit Court of Appeals. — This court may review nearly all cases by appeal or writ of error from the district courts. Justice Story defines a writ of error to be "a process which removes the record of one court to the possession of another court and enables the latter to inspect the proceedings, and give such judgment as its own opinion *of the law* and justice of the case may warrant." Since

1906, the ninth circuit court of appeals comprising the Pacific Coast has heard writs of error and appeals from the United States court for China. The circuit court, in short, has appellate jurisdiction in all cases except where an appeal goes directly to the Supreme Court. The circuit court of appeals was created to relieve the work of the Supreme Court, which it has successfully done.

Court of Claims. — This court has jurisdiction to hear and determine: —

1. All claims founded upon the Constitution or any law of Congress, except pensions; on any contract with the government; or for damages which a party would be entitled to if the United States were suable. It has no jurisdiction in damage cases growing out of the Civil War.

2. All counter claims and claims for damages on the part of the government against any claimant against the government.

3. The claims of any paymaster, quartermaster, commissary, or other disbursing officer of the United States, who asks relief on account of capture of funds and records for which he was responsible.

The Court of Customs Appeal. — This court was created to expedite the settlement of disputes arising from the collection of customs duties. It exercises sole, exclusive, and final jurisdiction to review by appeal all decisions given by a board of general appraisers as to the meaning of the tariff laws and the facts respecting the classifications of merchandise. It also determines the rate of duty imposed, fixes the fees and charges connected therewith, and settles all appealable questions governing the collection of customs revenues. Any one dissatisfied with the decision of the board of general appraisers at any port as to the rendition

of the law, or concerning the rate of duty charged, must appeal his case to the court of customs appeal within sixty days.

Jurisdiction of the Supreme Court. — The Supreme Court has original jurisdiction in all cases affecting ambassadors or other public ministers; and in all civil cases in which a state is a party; but between a state and the citizens of other states or aliens, it has original but not exclusive jurisdiction. In all other cases the Supreme Court has appellate jurisdiction. Congress has control of the Supreme Court's appellate jurisdiction, as the Constitution does not determine it. The greater part of the work of the Supreme Court is to review the decisions of the inferior federal courts, or of the supreme courts of the states and territories when the Constitution or a statute of the United States is involved. Such cases reach it by appeal or writ of error. In the Supreme Court, every case is discussed twice by all the members; the first time to get the opinion of the majority of the court, which is put into writing; the second time, when the member to whom the case was assigned reads his decision. The Supreme Court is the final authority, and its verdict is accepted. It may alter its verdict and has occasionally done so in important cases, in consequence of a change in its personnel; but its last decision is law.

Defects of the Federal Judiciary. — It is frequently charged, and with some truth, that, owing to the small salaries paid, only inferior judges are obtainable. This, however, is more true of the inferior federal courts than of the Supreme Court, where the honor the position carries with it always attracts able men. The system of life tenure *makes* judges forget, sometimes, that they are a part of a

democracy. But, on the other hand, the courts must not yield too readily to the radicalism of the hour. That courts sometimes may come under the influence of, and lean too sympathetically toward, wealthy corporations whose cases come before them, is also charged. This has been true, perhaps, of individual cases, but never of the courts as a whole. Nothing human can be perfect; but generally speaking, the good points in our federal judiciary far exceed the defects. The crying needs of the federal courts are to simplify legal procedure, allow fewer appeals on technicalities, prevent unnecessary delays, and lessen the cost of litigation.

Sec. 2, Clause 3. — *The trial of all crimes, except in cases of impeachment shall be by jury; and such trial shall be held in the State where the said crimes shall have been committed; but when not committed within any State, the trial shall be at such place or places as the Congress may by law have directed.*

Trial by Jury. — "I consider trial by jury as the only anchor ever yet imagined by man, by which a government can be held to the principles of its Constitution." — Jefferson.

The trial of all crimes in federal courts must be by jury, except in cases of impeachment, and, in this event, the members of the Senate take a special oath and sit as a jury in the case. The Constitution provides that the trial shall be held in the state where the crime is committed. In case the crime is not committed in any of the states, Congress has power to name a suitable place. When the Constitution was before the people for adoption, the objection was made that there was not enough emphasis put on jury trial, and not sufficient safeguard against unjust prose-

cutions; so amendments giving the necessary protection were offered and ratified during the first Congress.

It is necessary, in this connection, to consider four of the amendments to the Constitution which relate to the judicial system. These and other like amendments have been called our "Bill of Rights." They relate to proceedings only in the federal courts.

Amendment V. — *No person shall be held to answer for a capital, or otherwise infamous crime, unless on a presentment or indictment of a grand jury, except in cases arising in the land or naval forces, or in the militia, when in actual service in time of war or public danger; nor shall any person be subject for the same offense to be twice put in jeopardy of life or limb; nor shall be compelled in any criminal case to be a witness against himself; nor be deprived of life, liberty, or property, without due process of law; nor shall private property be taken for public use, without just compensation.*

The Grand Jury. — The grand jury is selected by the court, and is composed of not less than twelve responsible citizens. It is the duty of this jury to make a faithful inquiry into all wrongs and violations of the law. The jury has a right to call witnesses before it and make a thorough investigation. If, after the investigation, it has reason to believe that the person accused is guilty, it returns an indictment marked "True Bill." If it believes the person is not guilty, it indicates the same by writing "Not a True Bill." It is the duty of the grand jury to make complete and independent investigations of all violations of the law; and if it finds offenses that justify action, it may make what is called a presentment, an accusation based upon evidence, which may thereupon be followed by an indictment, and this in turn by a trial. The court usually gives the grand *jury instructions* concerning its duty, and may call its

attention to special and notorious offenses. The proceedings of a grand jury are secret. In fact, the oath the juror takes binds him to secrecy. With a few exceptions, which are given in the Constitution, no person can be tried unless he has been indicted by a grand jury.

The Petit Jury. — A jury for the trial of a case should have these requisites: it should be composed of upright, well-qualified men, who are disinterested and impartial, who are of no kin or personal dependency of or on either of the parties to the suit, whose homes are within the jurisdictional limits of the court, who have been drawn and selected by officers free from all bias in favor of or against either party, and who have been duly impaneled under the direction of competent court, and sworn to render a true verdict according to the law and the evidence given them. After hearing the evidence and receiving the instructions of the court relative to the law involved in the trial, they are asked to return their unanimous verdict upon the issue submitted. The procedure of getting a jury for trial in a federal court is similar to that in a state court. The laws and methods of the state are observed in this matter.

Second Trial. — No person can be tried the second time for the same offense unless the accused, after conviction, requests a new trial on account of an error of law committed during the trial. The request would be in his own interest, and granting a new trial would not be contrary to constitutional authority. If the jury fails to agree, the trial continues until a verdict is reached.

Infamous Crime. — Authorities do not agree on what is an infamous crime. Justice Cooley said: "The punishment of the penitentiary must always be deemed infamous,

and so must any punishment that involves the loss of civil or political privileges."

Other Rights of Citizens. — No person can be compelled in any criminal case to be a witness against himself; nor can his life, liberty, or property be taken away from him without due process of law. The government cannot take private property for public use without giving just compensation to the private owner of the property.

Amendment VI. — *In all criminal prosecutions, the accused shall enjoy the right to a speedy and public trial by an impartial jury of the State and district wherein the crime shall have been committed, which district shall have been previously ascertained by law, and to be informed of the nature and cause of the accusation; to be confronted with the witnesses against him; to have compulsory process for obtaining witnesses in his favor, and to have the assistance of counsel for his defense.*

Rights of the Accused Citizen. — The accused shall have a speedy and public trial by an impartial jury of twelve men from his own neighborhood, and the verdict must be unanimous. Each side may challenge jurors for cause, as may be done in the courts of the state in which the federal court is trying a citizen, and a limited number of veniremen may be rejected without giving cause. The accused in a criminal suit is indicted and must be given time to get counsel, to summon and compel witnesses to come to his aid, and must be confronted with the evidence of those against him. If the accused is too poor to hire counsel, the court appoints one to defend him. All this safeguards the liberty of any man falsely accused, and provides a fair trial and justice for the guilty. In the selection of juries there is at present great waste of time and money; too much delay is caused by attorneys and allowed by the courts, to

inspire confidence in the machinery of justice. This is not as bad in the federal as in the state courts, but should be corrected in both.

Amendment VII. — *In suits at common law, where the value in controversy shall exceed twenty dollars, the right of trial by jury shall be preserved, and no fact tried by jury shall be otherwise reëxamined in any court of the United States than according to the rules of the common law.*

Suits at Common Law. — This amendment is the result of the desire of the people to guard their property rights through the decisions of an impartial jury, as it was believed that Section 2, Clause 3 authorized the Supreme Court to review the decision of a jury in mere civil cases. Federal suits, representing a value in controversy exceeding twenty dollars, must be tried by a jury. The language is so clear no explanation is needed. The term " common law " is used in contradistinction from equity, maritime, and admiralty business, and means the common or unwritten law of England which recognized only two methods of reexamining facts tried by jury; viz., the granting of a new trial by the court before which the issue was tried, and by a writ of error.

Amendment VIII. — *Excessive bail shall not be required nor excessive fines imposed, nor cruel and unusual punishments inflicted.*

This is taken from the English Bill of Rights of 1689, and no explanation of the language is needed. What would be excessive bail, or an excessive fine, is left to the court, and the kind of punishment is prescribed by law. When in 1908 Judge Kenesaw Landis, of the district court at Chicago, ordered a fine totaling over $29,000,000, on the Standard

Oil Company, one of the contentions in the appeal was that it was an excessive fine. The fine was annulled, however, on other grounds by a higher court.

Coming back now to the regular analysis of the Constitution where we left it to consider the amendments relating to judicial matters, we have in Article III: —

Sec. 3, Clause 1. — *Treason against the United States shall consist only in levying war against them, or in adhering to their enemies, giving them aid and comfort. No person shall be convicted of treason unless on the testimony of two witnesses to the same overt act, or on confession in open court.*

Treason. — This is a summary of a few of the articles that the English Parliament passed on the same subject during the reign of Edward III. Treason is a crime committed for the purpose of overthrowing the government. It is the highest crime that a citizen can commit against civil society and deserves the severest punishment. Only persons owing allegiance to the government can be traitors to the government. For a long time in England it was left with judges to define treason; but this led to despotism and tyranny on the part of both king and judges, and many innocent lives were taken.

Definition of treason. — The Constitution defines treason as consisting in "levying war against the United States and adhering to their enemies, giving them aid and comfort." John Marshall, in speaking of levying war, said: "If a body of men be actually assembled for the purpose of effecting by force a treasonable purpose, all those who perform any part, however minute, or however remote from the scene of action, and who are actually leagued in the general conspiracy, are to be considered as traitors. But there

must be an actual assembling of men for the treasonable purpose to constitute a levying of war." Giving aid and comfort consists in aiding the traitors in their efforts to overthrow the government by furnishing them provisions, horses, cannon, or ammunition; in short, giving them any aid that would assist them in accomplishing their purpose against the government.

Sec. 3, Clause 2. —*The Congress shall have power to declare the punishment of treason; but no attainder of treason shall work corruption of blood, or forfeiture, except during the life of the person attainted.*

The punishment of treason. — The Constitution provides that Congress has the power to declare the punishment for treason. The present punishment is death; or, in minor cases, if the court so desires, it may sentence the accused to hard labor in prison for five years, with a fine of not less than ten thousand dollars, and disqualify him from voting.

Attainder of Treason. — According to the common law, corruption of blood and forfeiture of property followed conviction of treason. The Constitution prevents injustice of this kind. Judge Story throws light upon this question in the following words: —

"By corruption of blood all inheritable qualities are destroyed; so that an attainted person can neither inherit lands nor other hereditaments from his ancestors, nor retain those he is already in possession of, nor transmit them to any heir. And this destruction of all inheritable qualities is so complete that it obstructs all descents to his posterity, whenever they are obliged to derive a title through him to any estate of a remoter ancestor. So that if a father commits treason, and is attainted and suffers death, and then the grandfather dies, his grandson cannot inherit any estate from his grandfather; for he must

claim through his father, who would convey to him no inheritable blood. . . . In addition to this most grievous disability, the person attainted forfeits, by the common law, all his lands, and tenements, and rights of entry, and rights of profits in the lands or tenements, which he possesses. And this forfeiture relates back to the time of the treason committed, so as to avoid all intermediate sales and incumbrances; and he also forfeits all his goods and chattels from the time of his conviction."

In the United States the punishment imposed for treason pertains alone to the guilty participants, and they are assured justice by being tried by a tribunal authorized and appointed by Congress.

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SUGGESTIVE QUESTIONS

1. Why is a federal judiciary absolutely necessary?

2. Name the different federal courts. Name the judges of the Supreme Court. (See Congressional Directory.)

3. How is the country divided for judicial purposes? In what circuit do you live? Name states comprising it and judge of that circuit.

4. Who is your district court judge? When and where does he hold court? What is the principal work of the district court?

5. What is the duty of a United States district attorney? Of a United States marshal? Who holds those positions in your state?

6. What is meant by "constitutional" and "unconstitutional"? The courts may almost make our laws. How? Should they?

7. Should the Supreme Court ever reverse itself? Should dissenting minority opinions be given? Why?

8. Define the principal duties of each kind of federal court.

9. When and why are juries used in federal courts?

10. When may one appeal from state to federal courts?

11. Is it wise to let judges sit upon the Supreme bench after the age of seventy? Why?

12. Federal judges can only be removed by impeachment. Would a quicker, easier method be better? Why?

QUESTION FOR DEBATE

Resolved, That all federal judges should be elected by the people for a short term of years.

CHAPTER XIV

INTERSTATE RELATIONS AND RELATIONS BETWEEN THE NATION AND THE STATES

Article IV, Section 1. — *Full faith and credit shall be given in each State to the public acts, records, and judicial proceedings of every other State. And the Congress may, by general laws, prescribe the manner in which such acts, records, and proceedings shall be proved and the effect thereof.*

Full Faith and Credit. — " Full faith and credit " means that the same credit which a state itself gives to its public acts, records, and judicial proceedings must be given it by other states when properly proved. The public acts are the laws made by the state legislature. The records are all those authorized by law, including real estate records and legislative journals. Judicial proceedings are the judgments, orders, and proceedings of the courts. For example, if a person is sued in Kentucky, and a judgment is obtained against him, it may be enforced should he go into another state. This can be done by simply proving that a judgment was rendered against him. Congress has by law prescribed the methods of proving the records, acts, and proceedings by another state. Legislative acts are made authentic by being stamped with the state seal; court records, through the signature of the clerk and judge, and sometimes by a court seal.

Sec. 2, Clause 1. — *The citizens of each State shall be entitled to all privileges and immunities of citizens in the several States.*

Rights of Citizens. — If a citizen living in one state moves into another, he is entitled to all the privileges enjoyed by the citizens of that state. He is, of course, subject to the law and local regulations of the new state, and he has no right to use the law of his former state as a rule for his conduct. The Constitution guarantees to every citizen in the Union the enjoyment of these rights. The privileges and immunities referred to are those fundamental in their character, such as the right to life, liberty, labor, and equality before the law. The right to vote is not embraced in this phrase. A citizen, prior to 1868, was not defined, and the question of free negroes caused trouble frequently. Amendment XIV makes clear who is a citizen.

Sec. 2, Clause 2. — *A person charged in any State with treason, felony, or other crime, who shall flee from justice, and be found in another State, shall, on demand of the executive authority of the State from which he fled, be delivered up, to be removed to the State having jurisdiction of the crime.*

Fugitive Criminals. — The authority of the state ceases beyond its boundary. The officer of one state has no right to go into another state and arrest a criminal. Neither has the state to which the criminal flees the power to try him for a crime committed in another state. When a person charged with a crime in one state flees into another, the executive of the state thereof "shall on demand from the executive authority of the state from which he fled" deliver him to the state having jurisdiction over the crime. States have power only to try crimes committed against their own laws. Without the constitutional protection offered in this clause, each state would be an asylum for criminals, and society would be subjected to great wrongs and many injustices. By treaty agreements, different nations surrender

criminals to each other under an arrangement known as "extradition." The same term is used between our states for the surrender of fugitives from justice.

Steps in the Return of a Fugitive from Justice. — 1. The governor of the state where the crime is committed makes requisition, based on affidavit or indictment distinctly charging the crime committed, on the governor of the state to which the criminal flees.

2. If the fugitive is arrested before the requisition is made, it is the duty of the governor of the state to which the accused has fled to order the fugitive turned over to the agents of the governor of the state having jurisdiction. If the fugitive has not been arrested at the time the requisition is made, it becomes the duty of the chief executive of the state to which the fugitive has fled to order his arrest and to deliver him to the agents of the state making this requisition.

3. The fugitive is taken back to the state having jurisdiction of his crime and is tried.

4. The person so arrested may at any time apply for a writ of habeas corpus to test whether he is lawfully held.

The above is the regular method of procedure. Sometimes the governor of the state in which the arrest is made personally hears evidence before he honors the requisition. Whether he remands the prisoner to the state from which he is a fugitive is largely a matter of courtesy. The language of the Constitution is clearly mandatory, but it has no specifications of enforcement or penalty for non-enforcement. Hence the governor of no state can be forced to return a fugitive should he choose to protect him. Governors have occasionally refused to honor requisitions, *giving as a* reason for their actions the doubtfulness of

a fair trial to the accused. But this action seems a violation of both the spirit and letter of the federal Constitution, since it allows the executive of a state to be, in a sense, also a judicial officer sitting in judgment on matters that properly come before the judiciary of another state, and of which he may know little.

Sec. 2, Clause 3. — *No person held to service or labor in one State, under the laws thereof, escaping into another, shall, in consequence of any law or regulation therein, be discharged from such service or labor, but shall be delivered up on claim of the party to whom such service or labor may be due.*

This clause was made a part of the Constitution in the interest of slaveholders. Historically, it was the basis of the fugitive slave laws which were among the clearly defined causes of the Civil War. Since this war, the clause has become obsolete.

Clauses 1 and 2, Section 3, of Article IV, deal with a new subject of an entirely different nature, and are treated in Chapter XV.

Sec. 4. — *The United States shall guarantee to every State in this Union a republican form of government, and shall protect each of them against invasion; and on application of the Legislature, or of the executive (when the Legislature cannot be convened) against domestic violence.*

The Nation aids the State. — It is obvious that since the United States was to be a republic, the states composing the Union must also be republican in nature. The states are forbidden to keep a regular army or navy. They are thus thrown upon the federal government for protection, and the President is authorized to protect them with the army and navy against invasion. In case of insurrection,

or domestic violence beyond the control of the local authorities, the governor of a state sends the militia to the scene of disorder. If this should fail to restore peace, the legislature or the governor may call upon the President for help. This has been done frequently since the formation of the Union, as, for example, in quelling the Whisky Insurrection, in Pennsylvania, in 1794; the suppression of disorder at the time of the great strikes in the same state in 1877; and the restoration of order in Colorado in 1914. The language seems clearly to mean that the federal government must not interfere with a state, unless called upon.

The Nation may quell Disturbances in States. — It is right and in harmony with local self-government that the federal authorities should not interfere until called on; but when it becomes clear that a state is not doing its duty, and that the federal laws are being violated, then the national government must enforce the law without regard to the action of the state. An example of this grew out of the Chicago riots in 1894, when mail cars were obstructed, even destroyed, and interstate commerce was greatly injured. President Cleveland sent troops from the regular army there, against the protest of the governor of Illinois, to enforce the federal law and establish peace. The Supreme Court later upheld this action, saying in substance that while the United States government is one of enumerated powers, yet it has, within the limits of those powers, all the attributes of sovereignty, and has jurisdiction everywhere over its territory and over each citizen.

States and Federal Relations. — It has been seen in the foregoing that the relations between the federal and state governments are very close. There is generally a clear line of distinction in nearly all matters, but on some issues

this distinction is not so evident. There has never been any real sovereignty in the United States in its fullest sense, since both the federal government and the states are limited. The question of what the duties of a state are, and what those of the federal government are, is constantly before the people. These duties should be such as to serve as checks on each other, and yet be in harmony and accord. Each must keep its sphere to which it is clearly defined; when in dispute, an arbitral power is provided for in the federal courts, whose rulings must be obeyed. The tendency has recently been to increase the powers of the federal government; but this will decrease if the state will insist on its rights to settle questions local to it and act in accordance with its rights; should it prove unequal to the occasion, the federal government must assist.

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SUGGESTIVE QUESTIONS

1. What does "full faith and credit" between states mean?
2. What are the rights of the citizens of the several states?
3. How are fugitive criminals returned? What option has a governor of a state in the matter?
4. How is a republican form of government guaranteed?
5. When may the federal government interfere in a state?

CHAPTER XV

TERRITORIES, AND PUBLIC LANDS

Article IV, Sec. 3, Clause 1. — *New States may be admitted by the Congress into this Union; but no new State shall be formed or erected within the jurisdiction of any other State; nor any State be formed by the junction of two or more States, or parts of States, without the consent of the Legislatures of the States concerned as well as of the Congress.*

Early Colonial Charters and Land Disputes. — When the first colonies were organized and charters given them, grants of territory were given with little knowledge of what was granted, and without regard to prior grants or claims, or care for future results. Early charters of some of the colonies granted territory westward to the South Sea (Pacific Ocean); but no charter claims were ever made to areas west of the Mississippi. Virginia's charter of 1609 extended two hundred miles north and south of Old Point Comfort, " up into the land throughout from sea to sea west and northwest." The Massachusetts charter of 1629 and the Connecticut charter both covered parts of Virginia's claim. New York claimed land to the west, in territory more or less definitely bounded between Lake Erie and the Kentucky River, on the ground of jurisdiction over the Six Nations of Indians. The Carolinas and Georgia also had western claims, under early charters. Massachusetts, through her charter of 1691, and Connecticut were, however, the only colonies that could really lay any legal claim to western lands,

since the charters of the other colonies had been revoked. The question of holding or using this land amounted to little up to the time of the Revolution. After the colonies had thrown off the British yoke and had organized as states, they saw the importance to themselves of determining their boundaries anew. During the Revolution, George Rogers Clark conceived the idea of driving the British from the region between the Ohio and the Great Lakes in order to put an end to the Indian incursions against Kentucky, and got permission and aid from Virginia to do so. Clark captured the British forts in that region during 1778 and 1779, and Virginia, on her claim to the land through her annulled charter of 1609, and through this conquest, claimed the whole of the Old Northwest.

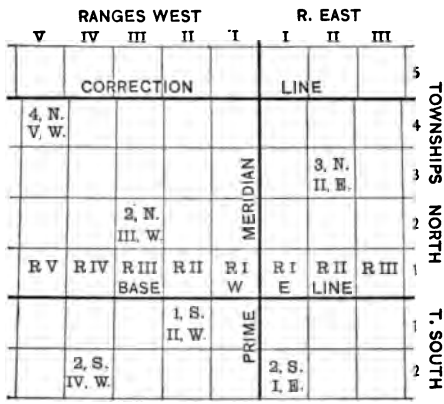
Waiving Land Claims. — Virginia's claims, more than anything else, started a long controversy which entered vitally into the question of adopting the Articles of Confederation and the establishment of a national government. Some of the states having definitely settled boundaries, and hence no land claims, objected vigorously to the various claims of their sister states. In 1780 Congress promised that all new lands should be opened for the benefit of the United States, and should be " formed into distinct republican states which shall become members of the federal union." In the meantime, Maryland had been stubbornly deferring the adoption of the Articles of Confederation, demanding that the states having western claims should cede them to the general government, since lands taken in war belonged to the nation as a whole. The states having the land claims began to cede them to the general government in 1781, the last one to do so being Georgia in 1802. Maryland at length ratified the Articles of

Confederation, which accordingly went into effect on March 1, 1781.

In the cession of territory in the Northwest, two of the claimant states retained small districts as lands for their soldiers; namely, the Virginia Military Reserve in southern Ohio, and the Western Reserve of Connecticut in northern Ohio. The district of Vermont, claimed by three states, was allowed to come into the Union (1791) as the first state after the adoption of the Constitution; Kentucky, which was part of Virginia, was permitted by Virginia to enter (1792) as the second; Tennessee, a territory ceded by North Carolina, came in as the third (1796). Thus was this troublesome question satisfactorily settled, and in the cession of these claims was the origin of the so-called public domain.

Action of Congress on Lands under the Confederation. — The Congress under the Confederation proposed to sell the disputed lands, even before they were ceded, in order to obtain revenue to carry on the war and pay the government's debts. The policy of selling these lands to land companies who exploited them for profit instead of recognizing that they rightly belonged to the people of the country for homesteads, prevailed for a long time. Moreover, under the laws of the thirteen colonies, no regular surveying system existed and hence a great deal of confusion resulted. But in 1785, an act was passed providing for a survey of western domain on a systematic plan known as the rectangular system. Certain meridians were definitely specified as principal meridians and certain parallels as base lines which, of course, cross the meridians at right angles. From the given base lines, parallels were run six miles apart. *These parallels,* crossed at right angles by meridians at the

same distances, cut the land into townships six miles square. These are numbered in tiers from the principal meridian, as, Range 1 East, and Range 1 West. Starting at the base lines, the townships are numbered 1, 2, 3, 4, 5, 6, etc., both north and south of the base line; and east and west from the principal meridian. Owing to the gradual converging of meridians, a correction base line is made at every twenty-four miles. The illustration explains the system briefly.



RANGES AND TOWNSHIPS

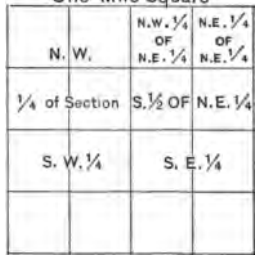
As will be seen, it is easy to locate definitely any particular township by a description according to this scheme; *e.g.*, Township 2 North, Range III West.

Six Miles Square

6	5	4	3	2	1
7	8	9	10	11	12
18	17	16	15	14	13
19	20	21	22	23	24
30	29	28	27	26	25
31	32	33	34	35	36

The numbering of sections in a township

One Mile Square



Divisions of a section

But the division into townships was not sufficient, hence the townships in turn were divided into sections of 640 acres

each, and each section into quarter sections. This system has worked admirably. Many disputes have been avoided by this simple land description. The diagrams given show how land is located and described in sections and parts of a section.

The Ordinance of 1787. — This ordinance was passed under the Confederation for the government of the Territory northwest of the Ohio River, which was our first organized territory. Among its notable provisions was one forbidding slavery in the territory, and another providing that education should be encouraged.

Land Grants under the Constitution. — 1. *Land Sales.* — After the adoption of the Constitution many laws regulating public land sales were passed. In 1800 the present system of having registers in the district where lands are for sale was inaugurated, with offices where the records of all sales of lands are kept. Preëmption laws soon followed, giving a settler preference over a speculator. This was a great help to home builders. At first the government sold its land at $2, then later, at $1.25 an acre, the lower price coming in 1820, which date marks a new era in land sales; however, little revenue was brought in until after 1830. In 1862 in response to increasing public sentiment, a homestead law was passed. This law gave 160 acres of public land almost free to any American citizen agreeing to live upon it and improve it. In 1909 the government increased the homesteads in the arid districts to 320 acres. The homestead act is still in force, and has worked admirably. It is the true American policy, one that should have been adopted earlier so as to have aided citizens of our country, rather than to operate for the benefit of land companies *and corporations.*

The public land question was affected by the number of immigrants. These immigrants, on account of the vast area of cheap land, and because of their inability to compete with slave labor, settled in the West. Hence the public domain, prior to 1860, became involved with the question of slavery, and the extension of slavery, in many instances when a new area was presented for formal organization into a territory, and again when the territory was ready for statehood.

2. *Railroad and Canal Grants.* — When a territory became a state, the federal government retained possession of the public land within its limits, and the newly made state had to promise not to interfere with the government's sale of such land. However, the federal government has granted public lands liberally to the states for various interests, especially for school purposes. In 1802, Congress first granted lands for public improvements when it voted Ohio one twentieth of the net sales of lands in that territory for roads when it was ready to become a state. A great deal of land was given by the national government to aid in the furtherance of canals in various parts of the country, and in 1850 it began to do the same for railroads. In 1850 Congress gave alternate sections of land to the state of Illinois, which later sold them to the Illinois Central Railroad for a small consideration. This was done with many railroads, until, in all, at least 180,000,000 acres were practically given away. This often led to serious abuse and fraud.

3. *Reservations.* — Numerous reservations of public land have been made by the government, some of which are still held for the benefit of the Indians, while others have been converted into parks, as the Yellowstone National

Park. Under an act of 1873, 9,000,000 acres were given away to settlers who would agree to plant and care for trees. From 1891 to 1903, 47,000,000 acres were set aside for forest reserves, and to this area are constantly being added timber, coal, and ore lands. The government itself has gone into the irrigation business.

Conservation of Resources. — The report of the Public Land Commission shows that down to June 30, 1904, the United States (including Alaska) had disposed of 1,809,539,840 acres of land for various purposes, including reserves for conservation of natural resources. On June 30, 1909, the total area of unappropriated public land (including Alaska), as shown by the report of the General Land Office, was 731,354,080 acres. At present there is a great demand that the public land, wherever it contains timber, mineral, or water useful for irrigation, be held by the nation for future use, to be developed as the government may decide. Also, demands are being made that forests under national control be reset and cared for all over the country, in lands bought by the government for that purpose. The acquisition and ownership of timber, mineral lands, streams, and water sites within states by the national government, have caused various questions to arise concerning federal and state authority. Federal reservations often retard and check developments in a state and thus tend to retard its growth. On the other hand, states have often allowed exploitation of lands given them by the national government in ways that were of little benefit to their citizens, and small credit to themselves.

How a Territory becomes a State. — So far it has been shown how the United States came into possession of the *public lands,* claimed by the original colonies in the regions.

east of the Mississippi; also a hint given as to how these lands were organized. By various additions through cession, purchase, and conquest, the national domain has reached its present boundaries in contiguous territory. As rapidly as settlers went to the frontier lands, territorial organization followed. Congress assumed complete control over a territory's affairs and determined its admission to statehood according to its will. No fixed rule was ever made as to the size of the territory or the population required for admission as a state. Generally Congress has passed an enabling act, authorizing a territory to apply for statehood, whereupon the territory has framed a constitution and submitted it to Congress for approval. Sometimes, however, the territory has first adopted a constitution and submitted it to Congress, asking for admission. Texas was admitted by a joint resolution of Congress, with a proviso that the territory should, at the will of that body, and with its own consent, be subdivided into five states; but this was never done. The only time the proviso "no new state shall be formed or erected within the jurisdiction of any other state without the consent of its legislature" was ever violated, was in the creation of West Virginia. Its admission in 1863, without the consent of Virginia, through questionable constitutional methods, was allowed to stand as a war measure.

Sec. 3, Clause 2. — *The Congress shall have power to dispose of, and make all needful rules and regulations respecting the territory or other property belonging to the United States; and nothing in this Constitution shall be so construed as to prejudice any claims of the United States, or of any particular State.*

Acquiring New Territory. — The Constitution nowhere specifically provided for the acquisition of new lands. It

was argued at the time of the Louisiana purchase that the section and clause, last quoted, related only to territory already owned when the new government was organized. But any nation may exercise any power that belongs to it as a sovereign state for its defense, and to promote its general welfare; hence it may also acquire territory. While the decisions of the Supreme Court have not always been consistent concerning the government of acquired territory, the Supreme Court has been very specific and clear in its assertion that the Union may acquire territory by conquest or treaty.

Government and Representation of a Territory. — The people of the regular territories were governed largely by the President, who with the consent of the Senate, appointed the chief administrative officers. The territories had their own elective legislatures of two houses to legislate for local affairs, but their laws were under the supervision of Congress. A delegate, who might debate, but had no vote, was elected from each territory to Congress. All contiguous territory of the United States is now in the Union under state control.

Hawaii. — This group of islands, annexed in 1898, is governed by an act of Congress passed in 1900. The government is practically the same as was found in the regular continental territories. The federal Constitution, and such laws of Congress as are not locally inapplicable, are extended to the territory. The President appoints a governor and a secretary for four years; also several judges. Among leading executive officers are a treasurer, auditor, attorney-general, and superintendent of public instruction; all of these officers are appointed by the governor of Hawaii. *The legislature,* elected by the people, is composed of two

houses: the senate having fifteen members, and the house thirty. The legislature's acts are subject to the veto powers of the governor, and may also be modified or annulled by Congress. Hawaii elects a delegate to Congress every two years, who may debate but not vote.

Alaska. — Alaska is now an organized territory, with its capital at Juneau, and the Constitution and laws of the United States are extended over it. Congress enacted a complete code of criminal laws for Alaska in 1898, and a new civil code in 1900, and 1912. The territorial legislature has two houses; a senate, which has eight members, two each from four judicial divisions in the territory, with a four-year term, one half being elected every two years; and a house of sixteen members, four from each judicial division, for a term of two years. Both houses are elected by the people. They meet biennially, in a sixty-day session, and in their organization, duties, and procedure, are similar to all former territorial legislatures. The laws enacted by the legislature must be submitted to Congress by the President, and if disapproved by Congress, are null and void. The governor, surveyor-general, district attorney, railroad commission, and judges of Alaska, are all appointed by the President. Communities of over three hundred have local self-government. By an act of Congress, 1914, looking to the internal development of Alaska, the President is intrusted with an appropriation fund of $35,000,000 to purchase or build railroads from the interior of the country to the coast, such railroads to be under the control of the federal government.

Insular Colonial Territories. — The Spanish-American War in 1898, caused by Spanish misrule in Cuba, suddenly brought us into colonial control almost without thought, cer-

tainly not through our seeking or by our choice. Through the exigencies of war the government of the United States incurred responsibilities from which it could not shrink.

The Philippines. — These islands and islets, about thirty-one hundred in number, were ceded to the United States by Spain through the treaty closing the Spanish-American War in 1898. All islands of any consequence are now under civil government; in some places, like parts of Mindanao and Sulu, most of the civil offices, including the governorship, are filled by military officers. With the inauguration of a new governor-general in 1913, a new policy was adopted toward the Filipinos. They have been intrusted with more of their own government, and promised ultimate independence. Of the Philippine Commission, which serves at once as the central government and as an upper chamber or senate, the Filipinos, hitherto in a minority, will in the future have six of the nine commissioners. Instead of having Americans only at the heads of departments, such as the bureau of lands, and secretaries of finance, and the interior, to assist the governor-general who is chief executive and president of the commission, as was formerly the case, natives are now intrusted with some of these important posts. There is also a lower elective representative assembly, chosen from among the natives.

For government purposes the islands are divided into thirty-eight provinces, each with an elective native governor, except in a few non-Christian isles where the governor is appointed by the governor-general. Municipal government has been instituted in about six hundred fifty towns. Two resident commissioners, appointed by the Filipino assembly, reside at Washington, and are called upon by government officials in matters relating

to the islands, but they have legally neither a seat nor a vote in Congress. The House of Representatives, through courtesy, allows them to attend sessions and sometimes even to serve upon committees. The last census of the Philippines taken in 1903 shows a population of 7,635,426.

Porto Rico. — The island of Porto Rico was ceded to the United States in December, 1898, and is, in government, similar to the Philippines, a partly organized territory. A plan for its government, since slightly amended twice, was adopted for the island in 1900. Under it the Porto Ricans have a representative government. The governor, secretary, attorney-general, treasurer, auditor, commissioner of interior, commissioner of education, and five native citizens, are appointed by the President for four years, and with the exception of the governor, they comprise a council or upper chamber. The house of delegates is composed of thirty-five members elected every two years. These are the regular territorial courts which are discussed elsewhere. The people choose a resident commissioner to the United States. Porto Rico is not an integral part of the United States, but belongs to it, according to Supreme Court decisions; the people are only citizens of Porto Rico and not of the United States; the Constitution applies to Porto Rico only as Congress directs, which, of course, means that the people of Porto Rico can become citizens of the United States only when Congress so wills. The island has free trade with the United States, and its own internal revenue system.

Minor Acquisitions and Dependencies. — The Canal Zone, Guam, and Samoa are the principal minor dependencies of the United States, with some form of simple government. Besides these, the United States owns a

few very small isles in the Pacific Ocean: Baker, Howland, Midway, Wake, and others, all practically uninhabited, hence requiring no government.

The Canal Zone. — By an act of 1912, the zone of land five miles on each side of the center line of the route of the Panama Canal, excluding the cities of Panama and Colon, is designated as the *Canal Zone.* Congress authorized the President to discontinue the commission by which the zone was formerly governed whenever he should deem it advisable; accordingly, this was done in 1914. Instead of the commission, the control is now vested by the President in a civil governor, a court elsewhere mentioned, and such other persons as the President may designate. The cities of Colon and Panama, while still belonging to the state of Panama, are under the complete jurisdiction of the United States as far as sanitation and quarantine are concerned. The United States acquired the Canal Zone from the Republic of Panama by treaty upon the payment of $10,000,000 and the further payment, beginning 1913, of $250,000 a year forever.

Guam. — This is really only a naval station, the island having only two hundred square miles. The commandant of the naval station is also, by appointment of the President, governor of the island. In 1908 the population was 11,490.

Samoa. — Great Britain, Germany, and the United States formerly had a tripartite government over the Samoa Isles; but this was dissolved in 1900. By the treaty then agreed to the United States secured three small isles, the only important one being Tutuila, which has a good harbor and contains fifty-four square miles. It is a naval station, presided over by a commandant who is appointed by the President, and who also acts as governor.

Cuba. — The island of Cuba does not belong to the United States, but there is practically an American protectorate over it. The United States has promised she would not annex the island, but in turn required Cuba to agree to no treaties with foreign nations endangering her independence, to contract no debts for which she had no probable revenues, to concede the right of American intervention, and to grant the United States naval stations upon the island. Cuba agreed to these demands in 1901. In 1906 a rebellion broke out and the United States took possession of the island until January, 1909. Since that date Cuba has managed her own affairs.

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SUGGESTIVE QUESTIONS

1. Why was so much territory ceded to the general government during, and soon following, the Revolution?
2. Describe the method of surveying used in the West.
3. By what methods has foreign territory been added to the United States?
4. What was meant by conservation of resources?
5. Explain how a territory ordinarily becomes a state.
6. What is the status of our insular possessions and of Alaska? Why forbid citizenship to the insular possessions?
7. Why have Americans been largely managing the government of Porto Rico and the Philippines?

QUESTIONS FOR DEBATE

Resolved, That full citizenship should be granted to Porto Ricans and the Filipinos.

Resolved, That the United States should sell or turn over the Philippines to the people of the islands.

CHAPTER XVI

THE SUPREMACY AND RATIFICATION OF THE CONSTITUTION

Article V, dealing wholly with the amending of the Constitution, logically belongs last in the discussion and will be noted in the next chapter with the amendments.

I. DEBTS CONTRACTED PREVIOUS TO THE CONSTITUTION

Article VI, Clause 1. — *All debts contracted and engagements entered into, before the adoption of this Constitution, shall be as valid against the United States under this Constitution, as under the Confederation.*

Debts of the Confederation. — The nation was born before the Constitution was written. A government had been organized, and it sought to form a more perfect union and government through the operation of the Continental Congress and the government organized under the Articles of Confederation. This clause makes the federal government under the new Constitution assume all the debts and engagements entered into by the Confederation. Our forefathers thus set the seal of disapproval upon the repudiation of debts and inculcated a deep moral obligation.

II. THE SUPREMACY OF THE CONSTITUTION

Article VI, Clause 2. —*This Constitution and the laws of the United States which shall be made in pursuance thereof; and all treaties made, or which shall be made, under the authority of the*

United States, shall be the supreme law of the land; and the judges in every State shall be bound thereby, anything in the Constitution or laws of any State to the contrary notwithstanding.

The Supreme Law of the Land. — The plan of a republic gives the people the power to make the supreme law, which becomes the authority for the enactment of any federal laws, and likewise the authority for making treaties with foreign nations. Each state had equal power in the making of the organic law of the land, hence it is only right that each should fully recognize the sovereign demands and requirements of the supreme law which governs all the states. This clause declares that the Constitution, and the laws and treaties arising thereunder, shall be the supreme law of the land; and that the judges of each state shall be bound thereby regardless of the state constitution and laws. This clause establishes the sovereignty of the nation, and makes it the duty of the judges of a state to declare null and void any state law in conflict with the supreme law of the land. Comparatively few laws of Congress, only twenty-one, have been declared unconstitutional by the Supreme Court. Nullification of a federal statute by a state has been tried only a few times, and the cases occurred prior to the Civil War. It must be clear that a treaty of the nation with a foreign power is part of this supreme law, and hence that no state may abrogate it.

III. OATH OF OFFICE

Article VI, Clause 3. — *The senators and representatives before mentioned, and the members of the several State legislatures, and all executive and judicial officers, both of the United States and of the several States, shall be bound by oath or affirmation, to support this Constitution; but no religious test shall ever be required as a qualification to any office or public trust under the United States.*

Nature of Oath of Office. — National senators and representatives, legislators, and the state executive officers of the state and of the nation, together with all other agents of the government, are required by the Constitution to be bound by oath, or affirmation, to support the Constitution. The form of oath to be taken was prescribed by Congress June 1, 1789, and is still used. It is similar to the one which the President takes, with the name of office changed. In view of the close connection of church and state in Europe, and the desire to avoid such a connection in the United States, no religious test may be required as a qualification to office holding. The following oath of allegiance, taken by Chief Justice Edward White, December 19, 1910, illustrates those taken by the judiciary: —

"I, Edward Douglass White, do solemnly swear that I will support and defend the Constitution of the United States against all enemies, foreign and domestic; that I will bear true faith and allegiance to the same; that I take this obligation freely, without any mental reservation or purpose of evasion, and that I will well and faithfully discharge the duties of the office on which I am about to enter. So help me God."

Following the oath of allegiance came the following prejudicial oath: —

"I, Edward Douglass White, do solemnly swear that I will administer justice without respect to persons, and do equal right to the poor and to the rich, and that I will faithfully and impartially discharge and perform all the duties incumbent on me as Chief Justice of the United States according to the best of my abilities and understanding, agreeably to the Constitution and laws of the United States. So help me God."

IV. RATIFICATION

Article VII. — *The ratification of the conventions of nine States shall be sufficient for the establishment of this Constitution between the States so ratifying the same.*

Before the new Constitution could go into effect it was necessary for it to be ratified by nine states — two thirds of the whole number. The same number was required to transact important business under the Articles of Confederation. As has been pointed out before, the work of the framers of the Constitution was revolutionary; hence it was not bound by precedent. The final paragraph says, regarding the action of the convention, "Done in convention by the unanimous consent of the states present," which was true. However, a few of the delegates present refused to sign it. The Constitution, with some suggestions as to putting it in operation after being ratified, was sent to the then existing Congress, which reluctantly sent it to the states. By July, 1788, eleven states had accepted the new government. Two alone held out, Rhode Island and North Carolina, and steps had been taken, mainly of a commercial nature, to force them into the new Union. By 1790 all the original thirteen states accepted the Constitution.

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SUGGESTIVE QUESTIONS

1. Why did the government under the Constitution assume the debt of the Confederation?

2. In what sense is the Constitution the supreme law of the land?

3. Why is a treaty of the United States with a foreign nation above a state constitution?

4. What were the leading objections to ratifying the Constitution?

CHAPTER XVII

AMENDING THE CONSTITUTION AND THE AMENDMENTS

Article V. — *The Congress, whenever two-thirds of both Houses shall deem it necessary, shall propose amendments to this Constitution, or, on the application of the Legislatures of two-thirds of the several States, shall call a convention for proposing amendments, which, in either case, shall be valid to all intents and purposes, as part of this Constitution, when ratified by the Legislatures of three-fourths of the several States, or by conventions in three-fourths thereof, as the one or the other mode of ratification may be proposed by the Congress; provided, that no amendment which may be made prior to the year one thousand eight hundred and eight shall in any manner affect the first and fourth clauses in the ninth section of the first article; and that no State, without its consent, shall be deprived of its equal suffrage in the Senate.*

Necessity of Power of Amendment. — The authors of the Constitution were wise enough to realize that it is not in the power of man to write a supreme law for the government of a nation so perfect as to provide for all its future requirements. Accordingly, they labored faithfully to make a perfect organic law that would secure the highest enjoyment of natural rights to each citizen, and then make provision for additional laws through amendments when the interest of the Union might demand such additional enactments. Wise as is this provision, to have allowed the Constitution to be too easily amended would have caused political unrest and loss of respect for it.

Hence it was made a slow, rather cumbersome, task to adopt an amendment, but on a great vital question the country has proved that it can be done. Nearly two thousand amendments have been suggested in an official way since the adoption of the Constitution; twenty-one have gone to the states for ratification; and seventeen have been accepted. This shows that the national government is stable and conservative. Political experience proves that governments and people fare better in being too conservative in adopting changes, than in being too hasty and too radical.

Proposals of Amendments. — There are two ways in which an amendment may be proposed: first, Congress may propose an amendment by a two-thirds vote of each house; or second, two thirds of the legislatures of the several states may apply to Congress to call a convention to propose an amendment. The last method has never been used.

Methods of Ratifying. — There are two methods for ratifying the proposed amendment: first, it may be ratified by three fourths of the legislatures of the several states; or, second, by conventions in three fourths of the states, as Congress may propose. When an amendment is proposed, it is submitted by Congress to the different states for ratification. After ratification is made by three fourths of the legislatures, or conventions, of the states, the amendment becomes a part of the Constitution. No amendment has ever been ratified by state conventions; all have been ratified by state legislatures.

Forbidden Amendments. — The Constitution prohibits the amending of the provision relating to state equality in the Senate. It also prohibited the amending of the

provision (not now in effect) that related to the importation of slaves prior to the year 1808.

Withdrawal or Ratification. — A state cannot withdraw its ratification of a proposed amendment after it has properly ratified the same.

A Bill of Rights. — Many of the states vigorously assailed the Constitution in their ratifying conventions, mainly on the grounds that it lacked what was deemed a sufficient guarantee of personal and political liberty and freedom. To remedy this weakness many amendments were proposed and their acceptance insisted upon. Out of the large number proposed, twelve were finally accepted by Congress and submitted to the states; ten were adopted by the states and declared to be in force, December 15, 1791. These ten amendments are usually called the Bill of Rights.

Amendment I. — *Congress shall make no law respecting an establishment of religion, or prohibiting the free exercise thereof; or abridging the freedom of speech or of the press; or the right of the people peaceably to assemble, and to petition the government for a redress of grievances.*

This amendment prohibits Congress from establishing a national religion; it does not, however, check the states; but nearly all state constitutions contain similar restrictions.

Freedom of Speech and the Press. — In our country the citizen has a right to speak and publish what he chooses, provided his utterances are not injurious to public morals and do not deprive others of the exercise of their natural rights. A free discussion of public questions, or matters that concern the people and the republic, is necessary in a free government. But a man is held liable for the abuse

of this privilege, as in cases of slander and libel. Slander and libel consist of speaking and writing of another falsely and maliciously such things as tend to injure him or bring him into disgrace.

The Right of Assembly. — The right which a republic offers the people to assemble and discuss at length questions of public importance has done a great deal to enlighten the people on public issues and questions, and in creating a higher moral sentiment, deeper reverence for the law, and larger love for humanity. When this privilege is properly used, it becomes a great force for good; its abuse would be equally harmful.

The Right of Petition. — The right of petition gives the people an opportunity to be heard on all questions concerning the public welfare. Good laws have been made, bad ones repealed, and wrongs have been righted as the result of the right of petition. Legislation, as well as other business connected with the different departments of a republic, is largely controlled by public opinion, and the right of petition gives the people an opportunity, in a constitutional way, of presenting to the agents of the government their desires and wishes.

Amendment II. — *A well regulated militia being necessary to the security of a free State, the right of the people to keep and bear arms shall not be infringed.*

The Militia. — The militia referred to in this amendment is the citizen soldiery of the country. The people of each state have a right, under certain regulations, to bear arms and maintain a regular militia. This amendment makes a large standing army unnecessary, for the President may call the militia into the service of the United States,

when this is done, the militia thereby becomes subject to the rules and regulations of the regular army.

Amendment III. — *No soldier shall, in time of peace, be quartered in any house without the consent of the owner, nor in time of war, but in a manner to be prescribed by law.*

Protection of Home. — This amendment is another guarantee of individual rights. Tyrannical rulers have in times past frequently quartered soldiers in the homes of their subjects without their consent. The theory of good government makes a man's home his castle, and guards him in the exercise and enjoyment of these sacred privileges. There is no necessity for quartering soldiers in private homes in time of peace.

Amendment IV. — *The right of the people to be secure in their persons, houses, papers, and effects, against unreasonable searches and seizures, shall not be violated; and no warrant shall issue, but upon probable cause, supported by oath or affirmation, and particularly describing the place to be searched, and the persons or things to be seized.*

This is another guarantee of personal rights. Every man's home is free from searches and seizures, unless these be authorized by a warrant issued by the proper authority. No warrant can lawfully be issued without sufficient cause, and on evidence supported by oath. It is necessary for the warrant to specify the place to be searched and describe the persons or things to be seized.

Amendment V. — *No person shall be held to answer for a capital or otherwise infamous crime, unless on a presentment or indictment of a grand jury, except in cases arising in the land or naval forces, or in the militia when in actual service in time of war or public danger; nor shall any person be subject for the same offense to be twice put in jeopardy of life or limb; nor shall be compelled in any*

criminal case to be a witness against himself; nor be deprived of life, liberty, or property, without due process of law; nor shall private property be taken for public use, without just compensation.

Amendment VI. — *In all criminal prosecutions, the accused shall enjoy the right of a speedy and public trial, by an impartial jury of the state and district wherein the crime shall have been committed, which district shall have been previously ascertained by law, and to be informed of the nature and cause of the accusation; to be confronted with the witness against him; to have compulsory process for obtaining witnesses in his favor, and to have the assistance of counsel for his defense.*

Amendment VII. — *In suits at common law, where the value in controversy shall exceed twenty dollars, the right of trial by jury shall be preserved, and no fact tried by a jury shall be otherwise re-examined in any court of the United States, than according to the rules of the common law.*

Amendment VIII. — *Excessive bail shall not be required nor excessive fines imposed, nor cruel and unusual punishments inflicted.*

These four amendments, V, VI, VII, and VIII, have been discussed in the chapter on the Federal Judiciary. The Supreme Court in 1868 held that Amendments V and VI were in no sense limits on the states.

Amendment IX. — *The enumeration in the Constitution of certain rights, shall not be construed to deny or disparage others retained by the people.*

Most of the rights recognized by our government as belonging to the people are not specifically enumerated in the Constitution. The best writers on constitutional law hold that we should have enjoyed the same rights that we do now, even if the Ninth Amendment had not been adopted. This amendment was made a part of the Con-

stitution, however, in order to guarantee to every citizen all the rights retained by the people of the states.

Amendment X. — *The powers not delegated to the United States by the Constitution, nor prohibited by it to the States, are reserved to the States respectively, or to the people.*

State Rights. — The power given by the Constitution to the federal government cannot be exercised by state governments. Neither can any power prohibited by the Constitution to the states be exercised by state authority. However, all the powers that the Constitution does not give to the United States, and does not deny to the states, are reserved to the states.

Amendment XI. — *The judicial power of the United States shall not be construed to extend to any suit in law or equity, commenced or prosecuted against one of the United States by citizens of another State, or by citizens or subjects of any foreign State.*

This amendment grew out of a decision of the Supreme Court which allowed Chisholm of South Carolina damages against Georgia. It has been discussed in Chapter XIII on the Federal Judiciary.

Amendment XII. — This amendment dealing with the election of the President and Vice President, has already been discussed in the chapter on the Executive Department.

Amendment XIII. — *Neither slavery nor involuntary servitude, except as a punishment for crime, whereof the party shall have been duly convicted, shall exist within the United States, or any place subject to their jurisdiction.*

Sec. 2. — *Congress shall have power to enforce this article by appropriate legislation.*

Slavery. — This amendment abolished slavery, which still existed in a few states after the Emancipation Proclamation had been issued. Secretary of State Seward issued a certificate December 18, 1865, announcing that this amendment had been ratified by the required number of states, and declaring it a part of the federal Constitution.

Amendment XIV, Section 1. — *All persons born or naturalized in the United States, and subject to the jurisdiction thereof, are citizens of the United States and of the State wherein they reside. No State shall make or enforce any law which shall abridge the privileges or immunities of citizens of the United States; nor shall any State deprive any person of life, liberty, or property without due process of law, nor deny to any person within its jurisdiction the equal protection of the laws.*

Citizenship. — The first section of this article defines citizenship. Men, women, and children born or naturalized in the United States, and subject to its jurisdiction, are citizens of the United States, and of the state wherein they reside. Justice Cooley, in speaking of this part of the Constitution, says: "It is a formal declaration of the great principle that has been justly said to pervade and emanate the whole spirit of our Constitution and government — that all are equal before the law." This section also guards the rights of citizens by placing restrictions upon the power of the state.

Sec. 2. — *Representatives shall be apportioned among the several States according to their respective numbers, counting the whole number of persons in each State, excluding Indians not taxed. But when the right to vote at any election for the choice of electors for President and Vice President of the United States, representatives in Congress, the executive and judicial officers of a State, or the members of the legislature thereof, is denied to any of the male inhabit-*

ants of such State, being twenty-one years of age, and citizens of the United States, or in any way abridged, except for participation in rebellion, or other crime, the basis of representation therein shall be reduced in the proportion which the number of such male citizens shall bear to the whole number of citizens twenty-one years of age in such State.

Purpose of this Section. — After the Civil War, negroes, being no longer held as slaves, would naturally be counted in apportioning the representatives to Congress from the South. If, then, they were not allowed to vote, the white population of the South would get a larger representation in Congress than would be their just due. This section does not compel the states to grant negro suffrage; but provides that, if they restrict it, their representation to Congress shall be proportionately diminished. There is nothing in the article, however, that prohibits a property or educational qualification requirement by a state, and since 1890, many southern states have made these necessary for suffrage.

Sec. 3. — *No person shall be a senator or representative in Congress, or elector of President and Vice President, or hold any office, civil or military, under the United States, or under any State, who, having previously taken an oath as a member of Congress, or as an officer of the United States, or as a member of any State legislature, or as an executive or judicial officer of any State, to support the Constitution of the United States, shall have engaged in insurrection or rebellion against the same, or given aid or comfort to the enemies thereof. But Congress may, by vote of two thirds of each House, remove such disability.*

Punishment for Violating Oath of Office. — This section limits the power and privilege of all persons who take an oath to support the federal Constitution and afterward

engage in insurrection and rebellion against the United States, or give aid and comfort to its enemies. It would require a two-thirds vote of each house to remove disability from a citizen, caused by the enforcement of this amendment. This was passed in order to give Congress power to prevent such men from being elected to office, state or federal, after the Civil War. Gradually Congress removed the disabilities by private or individual acts until 1898, when the last was removed.

Sec. 4. — *The validity of the public debt of the United States, authorized by law, including debts incurred for payment of pensions and bounties for services in suppressing insurrection or rebellion, shall not be questioned. But neither the United States nor any State shall assume or pay any debt or obligation incurred in aid of insurrection or rebellion against the United States or any claim for the loss or emancipation of any slave; but all such debts, obligations, and claims shall be held illegal and void.*

Sec. 5. — *The Congress shall have power to enforce, by appropriate legislation, the provisions of this article.*

But little need be said concerning Section 4. It makes all debts incurred in suppressing rebellion and insurrection valid and holds the government responsible for their payment. It further declares that all debts made in the interest of rebellion and insurrection shall not be paid by any government. This amendment arose out of the Civil War. It prevented any attempt to pay the debt incurred by the Confederacy, either at home or abroad.

Amendment XV. — *The right of citizens of the United States to vote shall not be denied or abridged by the United States, or by any State, on account of race, color, or previous condition of servitude.*

Sec. 2. — *Congress shall have power to enforce this article by appropriate legislation.*

This amendment was intended to give the negroes equal suffrage with the white people. A citizen cannot be denied suffrage on account of race, color, or previous condition of servitude; but each state may, if it desires, prescribe any other qualifications for its voters. If a qualification is required by a state, it must be uniform and affect white, red, yellow, and black people in the same way. This amendment was deemed necessary to protect the negroes in their civil rights, but it has not worked satisfactorily. The race was unfit for the suffrage when given, and it is a debatable question, especially in states where there are more negroes than whites, whether the amendment is not, even yet, a hindrance rather than a help to their progress.

Amendment XVI. — *The Congress shall have power to lay and collect taxes on incomes, from whatever source derived, without apportionment among the several States, and without regard to any census or enumeration.*

The Supreme Court having decided that a tax on income from property was a direct tax, this amendment was adopted in 1913 to remove any future constitutional objections.

Amendment XVII. — *The Senate of the United States shall be composed of two senators from each State, elected by the people thereof, for six years; and each senator shall have one vote. The electors in each State shall have the qualifications requisite for electors of the most numerous branch of the State legislatures.*

When vacancies happen in the representation of any State in the Senate, the executive authority of such State shall issue writs of election to fill such vacancies: Provided, That the legislature of any State may empower the executive thereof to make temporary appointments until the people fill the vacancies by election as the legislature may direct.

This amendment shall not be so construed as to affect the election or term of any senator chosen before it becomes valid as part of the Constitution.

After considerable agitation extending over many years, this amendment was added to the Constitution in 1913. It prescribes the manner of choosing United States senators and has been discussed elsewhere.

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SUGGESTIVE QUESTIONS

1. Why was the Constitution made amendable? Why made rather difficult to amend?
2. Describe the methods of proposing an amendment, and state how an amendment is ratified.
3. Why is it difficult to punish libel and anarchical utterances?
4. Were the first ten amendments really necessary to the Constitution? Why?
5. Should a state be allowed to limit suffrage on account of ignorance and lack of property?

QUESTION FOR DEBATE

Resolved, That the Fifteenth Amendment should be abolished.

CHAPTER XVIII

INTERNATIONAL RELATIONS

Foreign Affairs controlled by the Nation. — Under the Articles of Confederation much trouble was occasioned by states regulating their own commercial matters and in not allowing the federal government sufficient power to control all foreign affairs. This was changed by the Constitution. Only Congress can regulate commerce, and states are strictly forbidden to make treaties or alliances, or to enter into political relations with foreign nations, or to declare war. The executive department and the Senate alone have direction of the government in international affairs.

Origin and Nature of International Law. — The origin of international law, in its present sense, is of comparatively recent date. Lawrence defines it " as the rules which determine the conduct of the general body of civilized states in their dealing with one another." [1]

In short, by international law is meant those principles of equity and justice decreed by the common sense of nations in their relations with one another. Some principles of international law date far back to the ancients, especially those relating to the treatment of a foe in time of war. In its modern sense, international law owes perhaps most to Hugo Grotius, a famous Dutch writer, who published a book on the subject, in 1625, which has served as the basis for many later works on the same subject. No legislative

[1] Lawrence, The Principles of International Law, p. 1..

body decrees international law, no executive enforces it, nor, as yet, does any court define it. It has grown up through the traditions and customs of leading nations, and through agreements made in congresses and conferences. It is still in its infancy, but such as it is, it has done much for the peace and comity of nations. Writers on the subject do not make their judgments law. Their inferences and conclusions are quoted by governments in controversies, and thus help to establish right principles of action.

Making a Nation. — A nation, to have standing in the world's affairs, must have sovereignty sufficient to make and enforce its own laws and prove by its acts its ability and willingness to keep its treaty obligations. When it does these things, it deserves and gets recognition from other nations. Just when a new nation is to be recognized is left to the judgment of individual governments. As many new nations are born through rebellion and revolution, there often arises the question of interference by other governments. If a country is engaged in civil war, it is a maxim of international law that other nations must keep hands off and give the parent state a chance to quell the rebellion. If, after a reasonable time, this is not done, and it becomes evident that the parent government either is wholly unable to put down the rebellion, or attempts such a policy as to shock the moral sense of the world; and if through achievements, the rebels show that they are worthy, foreign nations may recognize them as an independent nation, or may intervene in their behalf, or both. The United States generally pursues the policy of keeping out of the quarrels of other nations, but it has nearly always sympathized with peoples struggling for independence, and has recognized their independence when conditions justified such action. In 1898

the United States felt, for humanity's sake, that it must interfere, and did interfere, in Cuba on the side of the insurgents against Spain.

Jurisdiction of and Intercourse between Nations. — Grotius asserted that the sea belongs to all who use it. It is clear that any nation must have authority and sovereignty over all the lands and inland waters within its borders. When it comes to jurisdiction over its coast line, should it have one, nations are not agreed, although the three-mile limit from the shore is generally accepted. It is not definitely settled how far a nation's jurisdiction extends over bays, straits, and wide-mouthed rivers. It is generally agreed, however, that where bays and rivers do not exceed ten miles in width at their mouths, the three-mile limit shall be measured from a straight line joining the headlands.

A settled course of action is sometimes followed without its being recognized as international law, as is illustrated by the leading nations of Europe in preserving the so-called balance of power, and the United States in maintaining the Monroe Doctrine, neither of which is accepted as a part of the code. Commercial and diplomatic intercourse with a nation cannot ordinarily be forced upon that nation against its will. Whether a nation establishes relations with another is supposed to be optional; but in modern times, when no nation lives unto itself, all countries are almost compelled to allow foreigners the right of travel and trade, the right to hold property and the protection of their laws. When intercourse is once established through treaties, officials are exchanged, and property and life are safeguarded. No nation will repudiate its agreements without *grave causes*. The United States almost forced China

and Japan to make commercial treaties with our government, but, ordinarily, treaties have come about naturally through mutual desire. The United States now has treaties with all civilized and with many semicivilized nations. In all the leading nations, with the exception of China, American citizens are subject, in civil and criminal matters, to the laws and courts of the country in which they reside.

Officials exchanged between Nations. — Generally, as soon as desires of intercourse are exchanged between two nations, a treaty is made by them through legally appointed agents. In the United States the treaty may be framed by agents appointed by the President and confirmed by the Senate, or it may be framed by the President and the department of state; in either case it must be ratified by the Senate and signed by the President. The treaty will contain agreements for the exchange of officials, whose duties it will be to look after the interests of each nation and to see that the treaty is properly observed. These officials are of different ranks. In the United States, we send the following officials to foreign countries, named in order of their rank: ambassadors, envoys-extraordinary and ministers plenipotentiary, ministers resident, and, for merely temporary purposes, chargés d'affaires. All these officials are appointees of the President, and as so much depends on the judgment and good sense of our agents abroad, the aim is to get good men and promote them from the lower positions to the higher, and from smaller to larger countries. These officials must not meddle with the politics or government of the government to which they are sent. They may, for sufficient reasons, be expelled from the country to which they have been sent, or a demand may be made for their

recall. On the other hand mistreatment of such officials is a grave offense, and has often amounted practically to a declaration of war. These officials communicate to the President through the secretary of state and convey the wishes of the United States to the governments to which they are assigned. They and their property and households are exempt from the laws of the country in which they reside; this being in accordance with international law everywhere.

Consuls. — Besides the officials above named the United States and other leading nations exchange officials called consuls. Somtimes vice consuls and consular agents, both with consular character, are sent to act for consuls. These men are sent to large seaports or large inland cities as business agents of a government. They are neither representatives of the government, nor diplomatic agents, and have neither the honors nor the freedom of a minister. Sometimes a *consul-general* and, in a few cases, a ***consul general at large*** is appointed to supervise the work of consuls in the country to which they are sent. Recent reforms in the consular service have aided greatly in its efficiency. Consuls must now give all their time to their work, and appointees under them are chosen only through examinations. Duties of consuls are stated in Chapter XII.

A State of War. — International law requires that nations must give some sort of notice before going to war. Sometimes the dismissal of a minister is sufficient, though generally an ultimatum is issued after all efforts at peaceful settlement have failed, or an open declaration of war is made. The United States has, in her wars, nearly always made a declaration beforehand. Again, in all civilized countries, citizens of one of the belligerent nations, who may be

residing in the other, must be given protection of life and property, and be allowed reasonable time to dispose of their property and remove from the country. Diplomatic relations are always broken off between warring nations. Weapons which would be inhuman, and such instruments of death as explosive bullets, for example, are forbidden. Since the Paris Congress of 1856, nearly all the world has abolished privateering, which is now recognized as a species of robbery. Neutral rights are being more and more extended. A neutral must take no part in a war. The United States accomplished much for the world in regard to neutrality, by compelling Great Britain to pay damages for violation of neutral rights during the Civil War.

Rights of War. — Ordinary goods of a neutral must not be captured, but contraband may be. Contraband is difficult to define. The Declaration of London (1909) gave a long list of such articles, which may be briefly classified as those pertaining to war directly, such as firearms, bullets, cartridges, powder and other explosives, armor plate, and such machinery as may be used to make any of them. Coal, horseshoes, and material for telegraph lines might become contraband in some cases. Efforts are being constantly made to lessen the destruction of property in war.

A friendly power may offer mediation to nations at war if the time seems opportune, which offer may or may not be accepted. Wars are ended by definite treaties, after the ratification of which diplomatic relations are resumed. International law does not, and cannot, define what shall, and what shall not be accounted causes of war; but, through its principles, causes are made fewer and situations are simplified.

Arbitration. — The horrors of war, the burdens of nations groaning under taxation for armament, the waste of energy and capital in maintaining large standing armies and navies, must eventually lead to an agreement between the nations to submit their differences to courts of arbitration. In the United States there have been many peace congresses to create sentiment against militarism, and they are enlisting the sympathy and efforts of many of the ablest men of the country. The United States has done more for settling disputes by arbitration than any other nation, being connected during the nineteenth century with about fifty out of a total of one hundred and twenty cases.

The Hague Tribunal. — Through the efforts of the Czar of Russia, a conference was called at The Hague in 1899, primarily to consider plans to relieve the world of its burdensome armaments and substitute pacific methods for force. At that conference a permanent court of arbitration was organized to sit at The Hague, and each power that sent delegates and acceded to the recommendations of the conference selects four persons at the most, who act, if needed, as members of this court. Nations may choose from this list those whom they want to act as arbitrators. The court met first in 1901, since which time it has settled several cases, two of them being controversies in which the United States was a party; viz., one with Mexico, and one with Great Britain. The method of arbitrating disputes has been severely criticized. "The so-called court is wanting in cohesion, continuity, and independence. Litigation is slow and expensive." But an attempt in 1907 to remedy the defects of the Hague Tribunal was only partly successful.[1] The Hague Tribunal has not succeeded in

[1] Hershey: Essentials of International Public Law, pp. 332–340.

abolishing or reducing the armaments of any nations, but it aims to create sentiment in that direction. Questions come before it only through agreement of the parties concerned, and it serves as a convenient tribunal for the settlement of international disputes. In 1910 Andrew Carnegie gave $10,000,000 as a permanent fund, the interest of which is used in creating a permanent international arbitral court for the settlement of controversies and the maintenance of peace.

Recent Arbitration Treaties. — Recently attempts have been made by the United States with a number of nations to secure arbitration treaties. Such treaties, popularly called "peace treaties," were ratified in 1913, and early in 1914, with a number of leading nations, including among others, France, Great Britain, Italy, Japan, Norway, Spain, Sweden, and Switzerland. The treaties provide for reference to the Hague Tribunal for five years of legal differences and questions relating to the interpretation of other existing treaties, which cannot be settled by diplomacy. No matter involving the independence or honor of the contracting nations is included in the scope of the new treaties. Before the United States permits a question to be submitted at The Hague, it must be agreed to by the President and ratified by the Senate. These treaties, limited to so brief a period of time, are not, of themselves, far-reaching; but they will undoubtedly help forward the universal peace movement and minimize the danger of war.

The United States in International Affairs. — Considering the short time the United States has existed as a nation, no country in history has wielded a greater influence or commanded more respect. More principles which may be said to be distinctly American, or have been championed by

the United States, have been accepted as international law, and fewer have been rejected, than of those advocated by any other nation. This has been due to three reasons: (1) As a nation we are large and powerful; (2) our political system and our isolation have kept us aloof from entangling alliances, and therefore we are less selfish and less partial than many other nations; (3) we have had able statesmen and diplomats to represent us in our department of state, and as ambassadors abroad.

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Source Material and Supplementary Aids. — Consular reports from a few leading consuls abroad. Get copies of the laws of 1906 and 1909, reforming our consular service abroad. Reports of the commissioner of immigration. Copies of proposed treaties, like the recent arbitration treaties with France and England which the Senate killed, may be had from your congressman while pending, and afterward if they are accepted.

SUGGESTIVE QUESTIONS

1. Why have international law? How did it originate?
2. When should a revolutionary body or new nation be recognized? What is the benefit of being recognized as a new, independent nation?
3. How are points in dispute settled between nations? What are *the merits of an* international court?

4. Why are ambassadors and other diplomatic officials needed?

5. What ordinarily constitutes a cause of war? What are the duties of a neutral power?

6. Review briefly a few of America's diplomatic triumphs. Why generally successful?

QUESTION FOR DEBATE

Resolved, That the United States should agree to arbitrate all questions of dispute with other nations at an international court.

PART II — THE STATES AND LOCAL GOVERNMENT

CHAPTER XIX

TOWN AND TOWNSHIP ORGANIZATION

Beginning of Early English Local Government

The Tun. — The collecting and settling of people within a more or less definitely fixed area is older than the beginning of authentic history. Greece and Rome had their towns and town meetings, but before that time they had both family and clan organization. The beginning of the town or township, as we know it, is of Saxon origin, and dates back prior to the Saxon conquest of England. In England there arose little villages, or "tuns," so named originally from the hedges that surrounded them. These villages were composed of small divisions of a tribe living in rude huts, each with a small lot around it. Near the village was a large field, used in common by the town, which was cut up into strips for tillage. Again, the old-time Saxons needed pasture for cattle, timber for building and fuel; so a tract of woodland or waste land was held in common for these purposes. The people of the tun being a clan, more or less permanently located, soon needed some law and organization so that justice, according to their ideas, might be done. How the political machinery arose is not clear, but it seems that each freeman came to the tun meeting with his spear and shield, and had a vote in the assembly which gathered

around a sacred tree or shrine. Here the disputes of the farmers were settled, fines were levied and collected, and criminals were punished according to the customs as stated by the old men. A headman, or reeve, who was prominent in the village, was chosen to preside. This meeting was closely akin to the New England town meeting of the early Puritans.

The Hundred. — A tribe was divided into many tuns, or villages. A group of these comprised what was called the canton, or hundred, a district which probably was, or had been, inhabited by the families of some hundred warriors. In the hundred grew up an assembly called the hundred moot, which met once a month. To it came the reeve and four men elected by each village, or tun, as representatives, who settled property disputes and criminal cases involving more than single tun jurisdictions. Each man had a voice and a vote.

The Tribe. — Above the tun and the hundred, in the early Saxon organization in England, was the tribe, which was organized as a shire. The tribe, scattered over more territory, embraced many tuns and several hundreds. It had generally a chief, with a council of distinguished men who later became the nobles, and a legislative assembly called the folkmoot. The folkmoot was a muster and a court, composed of the four men and the reeve from each of the tuns. It met twice a year, and was presided over by the chief, or by a nobleman of high rank. This body settled especially questions of peace and war, and chose the chief, who, later, was styled a king.

Early English Changes. — The institutions of the Saxons gradually underwent considerable changes after the Norman conquest. The lords usurped jurisdiction over the land,

and the reeve was superseded by the lord's steward. What had been tuns changed into what more nearly resembled our townships. However, the township then became generally known as the manor, that is, a township in which the chief executive officers were responsible to the lord of the manor rather than to the people. The parish, a religious organization, was older than the manor, having been established in England soon after the conversion of the Saxons to Christianity. Often a township, a parish, and a manor were coincident in boundary, but each exercised certain characteristic functions.

The parish retained much of the self-government of the old township. Certain matters of business could be transacted only in the vestry meeting, practically the old tun or town meeting under a new name. The parish looked mainly after the affairs of the church within its limits. The parish officers were elected by the taxpayers, or ratepayers, in the vestry meetings, with equal voice and vote.

The term *tun* developed into town and township in later English history. The Puritans, when they settled in New England, used the term *town*. But the term *township* is now generally used throughout the United States when a local political and territorial unit is meant. The organization of the hundreds in England gradually disappeared when the larger unit occupied by the tribe was organized as a shire, and the folkmoot gave way to the shire court. The shire, originally meaning share, became an integral part of the kingdom, with local government under a noble subordinate to the king. Later the shires were called counties. These counties gradually became local self-governing units of the kingdom.

***Early* Representative Government Started.** — As has

already been noted, the hundred moot, the assembly of the hundred, was not attended by all the people, but by a delegation composed of four chosen freemen and a reeve from each tun, to whom was often added the parish priest. The same delegation attended the folkmoot, or assembly, of the tribe. As the small kingdoms were consolidated into one nation, the idea of representation developed at the same time in such a way as to strengthen and simplify the local government and also that of the kingdom. In successful representative government, England has led the world. The English township, or parish, became the basis of political organization in the shire; upon it as a local unit are assessed national and local taxes, which are assessed and collected by officers chosen by popular vote.

The Town in New England. — The first Puritans came to America generally as congregations, and settled in groups so as to be near a school and a church. The character of the soil and the proximity of Indians made small farms and village settlement desirable and necessary. In Virginia and in the South, generally, where the plantations were large, the smallest unit was the parish, which exists yet in some states as a magisterial district and a division of a county. All legal voters could attend the town meeting; it usually met once annually, but could meet oftener, if necessary, and in it any one could propose and discuss measures. It is the best example of pure democracy we have. In it the local officers were elected; rates of taxation were fixed; money was appropriated for schools, roads, charities, and other local expenses; and town laws were made. The town or township including the area around the town is not only interesting as a self-governing insti-

tution, but it is the smallest political unit, a division of a county, and hence is the foundation, in a sense, of state and national government.

Importance of Townships. — The counties in New England were the outgrowth of the townships, and were organized primarily for administrative purposes. The early county served as a convenient local unit for the regulation of the militia, and to provide for the necessary courts and public records. The county is not as characteristically American in its influence as is the township. The principal officers of a town are: selectmen, three to seven, who have general management of the town; a town clerk, who keeps the records and the minutes of the town meeting; assessors, tax collectors, a town treasurer, justices of the peace, and a school committee. The duties of these are clear from their names. This government still obtains in the smaller New England towns, which, it should be noted, are rural communities or semiurban only, as cities growing up within the town's area take up separate municipal government. It gives the masses political training, and the town meeting and township government in New England have proved great factors in the political life of America. Towns in New England contain from twenty to forty square miles, and average about 2500 to 3000 in population. Outside of New England, towns exist in a modified form, and are almost always called townships.

Different Forms of Townships. — An adaptation of the town government has spread over nearly all the Middle and Western states. Since early in the eighteenth century, New York has had a law providing for a supervisor of a township, and the township supervisors constitute a county board. This created a nucleus for a strong local govern-

ment over small areas, and laid through the townships the foundation of county government. This form of county township government spread westward, especially into Illinois, Michigan, and Wisconsin. In the two states first named there are from sixteen to twenty townships in a county, which tends to make the county board of supervisors a rather unwieldy body. In Pennsylvania the county system of government developed first, the township being of later origin, and hence the board of township supervisors does not govern the county. The township held meetings merely to elect its officers, and there the meeting stopped, for the officers did the rest. This form of county-township government has spread into Ohio, Indiana, and later into nearly all Western and Northwestern states.

Spread of Township Government. — Modifications of the township system of government prevail almost everywhere in the United States to-day. The South, through magisterial districts for local justice, local taxation, and the school district, is rapidly adopting the township form. It is an interesting study to note how some Western states, settled from New England, New York, and Pennsylvania, carried with them ideas of the local government at home and fused a system having parts of the home plans; and, that when the stream of settlers came from the East and the South, as in Indiana and Illinois, there is an interesting adaptation of township and county government.

The so-called congressional township is six miles square, and is based on the government surveys begun in the West in 1785. Not all townships are uniform in size, but as a rule they centered around a schoolhouse; whereas in New England town life is centered about a church, and in the

South local government centers around a county courthouse.

Township Officers.—Township officers vary in different states. In some states there is a board of trustees elected for two or four years to look after roads and the public schools; the other leading officers are: a clerk, to keep the records and accounts for the township; an assessor, to list and value the property; one or more justices of the peace, and constables. In general, in the government of townships may be found executive, legislative, and judiciary departments, such as are found in county, state, and nation. The township government of Indiana is typical, and well illustrates this point. The executive officers of the township in that state are the trustee and assessor, both of whom are elected by the voters for a term of four years, as are all township officials. The trustee's duties are to care for the schools, employ teachers, and care for the township's property. He oversees the work of road supervisors, who look to him for supplies; takes the census of the school children each year; and looks after the township's poor, for whom he may spend a limited sum before sending them to the county poorhouse. The assessor lists for taxation all property except lands, each year, and lands every four years. The legislative feature of the township is in an advisory board of three members, who are also elected by the people. They get practically no salary and meet only on the call of the trustee, but must convene at least once annually. They may inspect the records of the trustee's acts, and raise or lower, within statutory limits, the tax rates for township schools and roads. Two justices of the peace and two constables make up the judiciary *of the township.* These guard the peace and try trivial

civil and criminal cases. The fines collected go part to them as officials, and the rest to the county treasury.

The township trustee and the assessors are a part of the county government in so much that their reports concerning the listing of property for taxation and local taxes are recognized by the county officials and become a matter of county record. The trustee is a member of the county board of education, and this board elects the county superintendent of schools. When the township has within it incorporated towns or cities, there is coöperation between the several political units, their respective duties being clearly settled by law.

Importance of Township Government. — More than ever, there has recently been a demand for better rural conditions, especially better schools and roads. As a result schools have been and are being greatly improved, and better farming is being done, better houses are being built, and teachers are better trained and paid. Road building has received a great impetus, due to rural mail delivery and a realization of the value of good roads in marketing the products of the farm; also good roads facilitate the consolidation of schools at a centrally located place, and improve the whole tone of the township. As the school is really the center of the township's life, and the township is the smallest political unit, it will readily be seen that its improvement by the township, or by the state or the nation, is bound to improve all. Couple all of this with the great democratic movements spreading everywhere, as more and more the people want the government in their hands, and it is evident that good management in their local affairs will be the best manifestation of their ability to do larger things well. A nation can be strong only if its local gov-

ernment everywhere is strong, and so the township to-day is a great and growing factor in our government.

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Source Material and Supplementary Aids. — Your state constitution. Your county map, showing the smallest local political units. Source books on English history, giving material on local government. State statutes defining local government and duties of local officials.

SUGGESTIVE QUESTIONS

1. Trace whence came the ideas of local political units into America.
2. Trace how and why your own smallest local political units started. How governed?
3. Which would be better for the small local unit, loose government of all the people, or centralization in a few officials? Why?
4. Which is of more importance to the ordinary citizen, township and district local government, or state and national government?
5. Make a list of all your local officers.

QUESTION FOR DEBATE

Resolved, That the township system of local government is better if intrusted to many committees, or boards, for administration.

CHAPTER XX

THE COUNTY

The County in England. — The shire has already been mentioned as originating in England. It was a division larger than the hundred, and generally smaller than a Saxon kingdom; often the shires were named after some town, which shows that they took form later than the towns. The assembly of the hundred gradually decayed in England, and the shire moot, composed of the freemen of the shire, met and kept up local self-government. The shire moot had its ealdorman, or chief, in charge when it did the legislating for the county. To this same meeting came a bishop of the church, and a shire reeve, or sheriff, whose duty was to look after the king's business as his direct representative. When the moot sat as a county court, it was presided over by the sheriff, who afterward enforced its decrees. The shires were often the successors of little tribal kingdoms; sometimes a few shires had constituted a kingdom; in general, the shires are the oldest local divisions of England, coming down to us only slightly changed, and the nation was the result of their gradual union, as was the United States the result of the union of our colonies. The counties lost much of their political importance after the Tudor period, since much work which had formerly been done by their local self-government was now done by the national government. Yet the early English settlers, when they came to America, adopted

many of the features of the English county in their own county organization. Especially is this traceable in the fact that the county was made the unit for the administration of justice.

The Early New England County. — As has already been noted, the county played a secondary rôle to that of the towns in New England local government. But, as early as 1643, four counties were formed in Massachusetts for judicial and military purposes. From the beginning the county was a judicial unit, which arrangement still obtains in Rhode Island, and largely so in the other New England states. The early county furnished a regiment of soldiers, made up of companies from its different towns. Each had a courthouse, a jail, a sheriff, and keepers of public records. The first courts of the counties were presided over by justices and a sheriff, appointed by the governor. The courts could try petty civil cases not involving over forty shillings, and criminal cases not punishable by death. They regulated highways and apportioned taxes among the various towns. Especially in its judicial business and in administration the New England county was modeled closely after the English shire.

The New England County To-day. — To-day the principal officials of the New England counties are: first, three commissioners, elected by the people, generally for three years, one being elected annually, whose duties are to estimate and levy the annual county taxes and apportion them among the different towns, to control roads and bridges, to look after county buildings and houses of correction, but who, except in the apportionment of taxes, have no authority whatever over the towns; second, a county *treasurer,* elected for three years, who receives and pays

out the funds of the county raised by taxation and through fines and court costs; third, a probate county judge, having charge of wills and the administration of estates; fourth, a register of probate, elected for five years, who has charge of wills and court records; fifth, a register of deeds, elected for three years, who has charge of all land transfers and mortgages; and finally, justices of the peace, appointed by the governor, whose jurisdiction is over only petty matters similar to those in a western township. It will be seen that all the officers named, except the commissioners and the treasurer, are really attached to the court, and do legal work. The most important officer, however, in the New England, as in the English, county, is the sheriff who is elected for three years. He is the executive officer of the county, must attend all court meetings, and must carry out all court mandates, and is, therefore, in part, a court official.

The Southern County. — In England, after the Tudor period, the shire court was gradually supplanted by a court called the "quarter sessions," composed at first of six and later of any number of judges. These judges hold office for life, appoint constables, control roads and prisons, and try all minor offenses. The parish absorbed the ordinary duties of the court of quarter sessions, and exercised them over a small area, with additional duties related to church affairs, such as levying rates for church support. All church members, called ratepayers, had a vote in the parish. In Virginia, as elsewhere in America, people began to settle in towns, but the fertility of the soil and the nature of the products caused them to scatter, and land ownership became a basis of rank. The parish of England was introduced into Virginia, with about the same officials,

but it was governed differently. It was entirely undemocratic, not being representative, for its twelve vestrymen, at first elected by the ratepayers of the church, became a perpetual body with power to fill its own vacancies. The vestrymen levied the parish taxes, had other functions similar to those in England, and trained the people somewhat in self-government, but in no sense was the Virginia parish a political unit like the New England township. Another political unit was needed, especially for representation and judicial purposes, and hence the county unit was created. The county, then, had its origin, in America, in the Old Dominion. Sometimes the Virginia county had only two parishes, but generally more.

Officials of the Southern County. — The Virginia county was created for judicial and financial purposes. To the parish was left church affairs, but representation in the state legislature was left to the county. The county court, at first composed of eight justices appointed by the governor, who met once a month, was its main governing agency. This court recommended men to the governor to fill its own vacancies and for the office of sheriff, the highest officer of the Virginia county. Besides exercising ordinary judicial functions, the county court, when the county judge and magistrates sat as a fiscal court, looked after roads and bridges, assessed county taxes, and granted licenses, etc. Great crowds came to the sessions, as is true to-day, if for no other purpose than to barter, trade in horses, and talk politics. The county court of the present time, except when sitting as a fiscal court with the justices of the peace which it still does in a few Southern states, is presided over by a judge, elected by the people, who has *charge of probate* matters and who tries minor cases, both

civil and criminal. The sheriff is not only a court official, but he collects taxes, disburses them, and presides over elections. The other important county officers of the South are the assessor, the recorder, treasurer, clerk, coroner, prosecuting attorney, circuit judge, and a superintendent of public schools. The circuit judge and the prosecuting attorney may have several counties under their jurisdiction. The circuit judge has charge of civil and criminal cases of more importance than those under the jurisdiction of the county judge.

The more important duties of the principal county officers of the South to-day, not already given, will be taken up next. The duties of the officers given are practically the same in all sections of the country. Nearly all of them are elected by the people and hold office for a term of four years.

The *assessor* has charge of the listing and assessment of all property in the county. In some states he has under him township, or district, assessors, to whom he gives direction and aid.

The *auditor* or *clerk* is an important administrative officer. In some of the Southern states he takes the place of the recorder and keeps the record of mortgages, deeds, and leases. Where states have the commissioner board system of county government, as in the Northwest, the auditor is secretary to the county board. He must keep an account of all receipts and expenditures of the county, and thus is a check on the sheriff or treasurer.

The *clerk of the circuit court* must see that the court's records and proceedings are enrolled in a permanent form. He prepares the docket of all cases for trial and records the judgments issued; also, keeps transcripts and papers of

the court, and issues warrants on the county treasury for jury and witness fees.

The *coroner* takes charge of the body of a murdered person, or of one found dead from violence or under mysterious circumstances. He may summon a jury and physicians, and hold what is commonly called a " coroner's inquest," which renders a verdict stating the probable cause of death.

The *recorder* keeps the record of all deeds, mortgages, and leases in a systematic manner in states where a county clerk does not perform this duty.

The *superintendent of schools* is at the head of the county's schools. He holds examinations for teachers, visits the different schools, grades their work, supervises common-school promotion to high schools, and everywhere devotes his time to the improvement of the rural and public schools. His is an office of growing importance and of great possibilities for service and usefulness to a county.

The *treasurer* is the collector of the county and state taxes, where this duty does not fall upon the sheriff. This officer is, in brief, the custodian of the county funds. In most states his term is for two years, and he is made ineligible for more than two terms in succession.

Spread of the Virginia County. — The county government of Virginia has been copied by practically every Southern state, and by Colorado and Oregon. It has many admirable features about it, but also some defects. One of the main objections is that the southern county government is very expensive. The Southern states are behind other states in still allowing their county officials all sorts of fees and perquisites, instead of grouping the counties according to population and putting the officials on definite *salaries* fixed by the state legislatures.

The Mixed System of County Government. — In New England, it has been noted, the county played a minor part in local government, being secondary to the town. In Virginia and the South it is the all-important unit of local government. In the Middle Colonies there grew up a mixed system of government, owing to the character of the people and of their industries. Especially did New York and Pennsylvania develop interesting systems, the former emphasizing the township first, and allowing it powers which were not delegated to the county; the latter developed the county first and then the township. The systems of Pennsylvania and New York have affected local government in the West and Northwest more than those of any other states, except where the Virginia plan was adopted.

The Court System of the County. — The system of justice, as a rule, is more or less complicated, but what ordinarily is done in counties in the several states is noted here and in a subsequent paragraph. Justice as dispensed in magisterial districts and townships, before local justices of the peace, who have about the same jurisdiction in all the states, has already been dealt with. Cases brought before these officials over which they have no jurisdiction, are referred to the grand juries and regular county, circuit, or probate courts. Cities of consequence have police courts and juvenile courts, which relate only to the city, and which accordingly have no jurisdiction over matters arising in the county outside. Some states have created county judges with minor criminal jurisdiction, combined with probate business; in other states there is a special probate court which does no other work; while in others it is the business of the circuit court to handle probate matters.

The Circuit Court of a County. — The court that is found almost universally in every county in the United States is the circuit court. It has both civil and criminal and, as above stated, sometimes probate jurisdiction. What is generally known as a superior court assists the circuit courts in some states in their counties having a large population. The circuit court has original jurisdiction in most of its business, but may hear appeals from the lower courts of a county. In some cases its decision is final, but in other cases an appeal may be taken to the state appellate or supreme court. While the circuit court exists everywhere, sometimes more than one county is included in the judicial circuit or district, and then all the counties in this district vote for the circuit judge and prosecuting or district attorney. All the courts operating in the county have the county sheriff for their executive officer.

The Jury System. — Besides the officials already mentioned, there is, in the machinery of justice, also the jury, which is of two kinds: petit and grand. Both of these organizations are of very early English origin, and are recognized in both our federal and state constitutions.

The grand jury is made up from representative men of the county, varying in number from six to twenty-three, who are chosen by court officials. Its sole business is to ferret out crime, to which end it may call before it any witnesses by a summons or subpœna, and inquire about violations of the law. It also consults with the district attorney and judge, and if sufficient evidence seems at hand, an indictment, or true bill, is issued and put into the sheriff's hands for execution. The jury's work is secret, and the indicted person must not know what has been done *until he is* arrested. The person arrested gives bond, if

charged with a bailable offense; if not so charged, he is imprisoned until a day is set for his trial, when he appears before the petit jury.

The petit jury is selected by court officials, and in almost every state is composed of twelve men who have not formed a definite and unchangeable opinion as to the guilt or innocence of the accused, prior to the time they are sworn in for jury duty. The trial proceeds before the judge and these twelve men, who, in some states, are to be the final judges of both the law and evidence; in others, of the evidence only, guided fairly in both instances by the presiding judge. The members of the jury must agree unanimously on a verdict in order to pass sentence. In case they cannot do this, they so report to the judge. The petit jury sits in both civil and criminal cases, unless otherwise agreed upon.

Some objections to the jury system. — In selecting a jury, both the plaintiff and defendant may challenge, and have set aside, a given number of talesmen summoned; also, if prejudice should be so great that a fair trial cannot be had, a change of venue to another county is granted. Nearly all legal business comes before the circuit or district and probate courts for settlement, and the verdict of the jury is generally accepted as final. Much injustice and evil has been done by jury trial; but as yet nothing better has been devised. A set of trial judges, trained in the law and in sifting evidence, is often suggested for all cases; but so many objections to the plan at once arise that no state has ever tried it. Some of the obstacles in the way of getting speedy justice at little cost are due to the fact that many good citizens shirk jury duty, leaving it to a crowd of professional hangers-on, found around every

county seat, who are unfit for such duty; and again, many men dodge this patriotic duty, often because lawyers and courts by unnecessary delays allow cases to drag along over long periods of time, and jury service is a burden at best. These circumstances often result in injustice whichever party to the suit may win. Again, the fact that twelve men must be unanimous in a verdict seems an injustice, as it often leads to a compromise when a verdict is finally reached. This could readily be remedied by allowing two thirds or three fourths of the jury to render a verdict, thereby securing a real verdict instead of a forced compromise; also, it would prevent many mistrials, and save counties enormous sums. The trial by jury is, however, the fairest and safest system, if citizens would do their duty, and if all courts would expedite business and compel lawyers to introduce only relevant and material evidence.

The County as the Unit for State Government. — The county is a territorial and political division, created by a state legislature to serve as a connecting link between a given number of local units, called magisterial districts in the South, and townships in the remainder of the country. Every state is divided into counties, or their equivalents, which arrangement enables the state government to be in direct relation and close touch with every part of its domain.

Problems of the County. — County government is a very important factor in the well-being of any community, but is frequently sadly neglected. Often communities get excited over questions like tariff, trusts, and Cuban annexation, but fail to look closely into home matters *which mean* infinitely more to them. State and national

politics cannot be clean and healthful if county government is corrupt.

"Graft" in office. — One of the greatest problems of the county is to get men of honesty, ability, and efficiency to fill the offices. There is always in every county a horde of hungry office seekers, sometimes rival sets and cliques, striving to get into office by hook or crook, and often spending as much money to be elected as the office pays, if not more. Unless such persons are wealthy and covet merely the honor, they must contrive in some way to get back the money spent for election. In such instances "graft" and dishonesty prevail, and the county suffers from misgovernment, high taxes, poor roads, unsafe bridges, and bad schools. The remedy is in a better citizenship, eternal vigilance, and unceasing attention to county affairs, with a demand for efficiency in office, and enforcement of the law.

County poor and criminals. — Many states give what is commonly known as outdoor relief, meaning aid given at the home of the pauper, through township and magisterial offices. This method of relief works well for temporary purposes, and especially so in rural communities where every one is well known. Over so large an area as a county, or in towns and cities, outdoor relief ordinarily gives way to what is known as indoor relief, meaning the support of paupers and indigent in an almshouse, or poorhouse. Nearly all counties have poorhouses located on a farm, where the inmates may partly support themselves by their labor. The county commissioners usually have supervision of poorhouses and other institutions of various kinds for poor relief in the county, but place officials known as overseers or superintendents of the poor in immediate

charge of them. The jails which serve as the county's prisons are generally in charge of the sheriff, or a special officer elected by the people known as a jailer. In some states the jails are also under the general supervision of the board of county commissioners. The management of many poorhouses and jails in all sections of the country frequently is subject to severe criticism. In both there is mismanagement; the cost of maintenance is often too high, and proper care is not exercised in the segregation of the sexes in the almshouses, and in keeping youthful criminals and those guilty of petty offenses from those who are old offenders and hardened in crime. Often crime, instead of being corrected, is created and fostered. This will be true until public sentiment insists on competent supervision of charities and prisons by men fitted for the work. Too often, at present, persons who have charge of these institutions get their positions merely through party pulls for political reward, and the community suffers morally and financially as a result.

Closer State Supervision. — At present the tendency everywhere is to strengthen democracy and to hold local and state officials more strictly responsible to the people. This being true, it may seem like a contradiction to say that some states are succeeding in getting better county government by placing county officers under the supervision and control of state officers, as well as by giving them a definite salary and requiring them to turn all fees into the county treasury, and to put the county funds, which belong to the people, at interest, the interest to go to the county instead of to themselves and their friends. Expert accountants and supervisors should be provided by the state government to audit the accounts of county

officials and see that the law is obeyed. This seems like bureaucracy and centralization; but it is true democracy, since it safeguards the interests of the people.

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Source Material and Supplementary Aids. — A state map, locating counties. Have a map with the county divisions for local government in townships or magisterial districts. Watch proceedings of county officers in newspapers. Get copies of financial statements of township and county officials. Show how money is raised and expended.

SUGGESTIVE QUESTIONS

1. Does the eastern or southern county of to-day more nearly correspond to the English shire? Why?

2. Why does the county count for more in the South than in New England?

3. How many counties in your state? May old counties be divided in your state? How?

4. May new counties be created in your state? How?

5. How do you explain the importance attached to the office of the sheriff among county officials?

6. Name your county officials; give term and salary received.

7. State duties of different county officials.

8. What is meant by the mixed system of county government?

9. Name the different courts in your county. Who are the officials connected with each one? Duties of these officials?

10. Define grand and petit juries. How chosen?

11. Explain steps a criminal case takes from the time robbery has been committed in a neighborhood until the criminal is in a state prison.

12. Explain steps in a civil case, where the title to a farm is in dispute.

QUESTION FOR DEBATE

Resolved, That the jury system should be supplanted by a set of seven judges trained in the law.

CHAPTER XXI

THE STATE GOVERNMENTS UNDER THE CONSTITUTION

CHAPTER III tells how the English-American colonies proclaimed themselves states by the Declaration of Independence. Some of them, in fact, had organized state governments prior to July 4, 1776. In the government under the Continental Congress from July 4, 1776, to March 1, 1781, the states were united only through the common cause of fighting for freedom. During this period each state governed itself practically as a separate, sovereign community, and obeyed the Congress only when it felt so inclined. In the government under the Confederation, 1781–1789, each state retained, as declared in Article II, "its sovereignty, freedom, and independence, and every power, jurisdiction and right which is not by this confederation expressly delegated to the United States in Congress assembled." The states also denied themselves some of the same powers that were afterward denied them by the federal Constitution. Nearly all the states had adopted constitutions, which they retained with slight changes, after ratifying the federal Constitution. Connecticut and Rhode Island, as has already been stated, continued under their colonial charters. In most of the states new constitutions were framed, or old ones amended, before 1800.

Powers of a State. — The powers of the federal government are delegated powers. Some powers are denied to

it, and some are denied to the states. Experience had clearly shown that the states must deny themselves many powers, if a new form of government was to be an improvement over the old one. Accordingly, the states inserted into the Constitution many prohibitions upon themselves (Article I, Section 10). In Article I, Section 9, and in the first eight articles of the amendments, are found the powers denied to the federal government. Whether or not the states are older than the Union, or the Union is older than the states, neither can get along without the other. Without the machinery of the state governments, which are in close touch with the daily life of the people, the national government could not exist at all. In the whole range of powers, some are exclusively federal, some belong exclusively to the states, some are expressly denied both to the federal government and to the states, while some are concurrent. The Constitution does not, however, clearly define the different spheres, and, after more than a century of experience and judicial interpretations, some questions are not yet settled.

The tendency of the national government since the Civil War has been toward centralization and encroachment upon the rights of the states. These rights must be jealously guarded. For a generation or more after the adoption of the Constitution, the right of secession from the Union on the part of a state was a common belief of both the north and the south. The states everywhere called themselves sovereign, occasionally nullified laws of the federal government, and frequently threatened secession in New England and in the South. The South, basing its action upon what was felt to be the legal and constitutional right of a state, *finally attempted* secession. In the meantime, however,

a national sentiment had evolved and become dominant in the North and West, the reasons for which are explained in American history.

Whatever may have been the original thought of a majority of the framers of the Constitution, and of those ratifying it, an evolution of sentiment, overwhelmingly in favor of national supremacy, settled the question of secession in the negative by the arbitrament of war. In 1869 Chief Justice Chase, in delivering the judgment of the Supreme Court, in the case of Texas *v.* White, summarized our government as "an indestructible Union composed of indestructible states." All fair-minded people now deplore the fact that there should have been the worst civil war of modern times to settle the rights of a state under the Constitution, and to determine the nature of the Union; on the other hand, all are agreed that it is for the best that all states are in harmony to-day, and that the United States is one united nation held together by stronger bonds than ever before.

Periods of State Constitutions. — The first constitutions of the states were framed during the revolutionary period, and only slight changes and modifications were made by the end of the century. They all show evidence of great fear of the acts of governors and of centralized authority, and give more authority to the legislatures which are chosen directly by the people. During the second period, from the beginning of the century to the Civil War, the constitutions show great extensions in the matters of suffrage and religious liberty, and an increase as to the number of elective officers. The third period has extended from the reconstruction days to the present time. In this period one observes that constitutions are much longer

and more elaborate in detail. The governor is given the veto power in all but four states, the power of the courts is increased, and legislatures are more restricted in their law-making power. Constitutions have been changed oftener in the South and West than elsewhere in the country, due to less conservatism and less reverence for the past, and to the rapid economic changes and upheavals that have taken place in those sections.[1] At the present time the constitutions of the Western states, especially, are being radically changed, and, it would seem, unduly lengthened. The chief aspect of these alterations is that the electorate is given increased powers which will be noted in another chapter.

Adoptions of State Constitutions and Amendments. — At first all our state constitutions were formed either by legislatures or special constitutional conventions whose work stood without ratification by the electorate of the state. Now, in nearly all states, a convention is chosen, in which all the counties are represented, to frame a constitution which is submitted to the electorate for ratification. About one third of the states require this method by law, but nearly all states practice this procedure, except those few whose constitutions require revision at stated intervals. Congress has a voice in the acceptance of the territory's first constitution, and it may refuse to accept it, as was recently (1911) done in the case of Arizona, owing to its having a clause providing for the recall of judges. All state constitutions have a bill of rights, guaranteeing to their citizens practically what the first ten amendments of the federal Constitution do; an outline or frame of government providing for executive, legislative,

[1] *See Bryce:* "The American Commonwealth," I (3d ed.), 450–462.

and judiciary departments; and miscellaneous provisions. Under the latter heading is one defining how the constitution may be amended. A large majority of the states provide for amendment by conventions, the members of which are elected for that purpose. Again, in nearly all states, the legislatures may propose amendments, which are then voted upon, for adoption or rejection, at regular or special elections; also, recently, some states amend through popular initiative and referendum. A state constitution is the organic supreme law of the commonwealth, and to it the statute laws of the state must conform.

State Legislatures. — *Composition.* — When the Revolution began, all colonies except Pennsylvania and Georgia had bicameral legislatures, and the members were chosen by the people. With but a few exceptions, the lower house is called the house of representatives; it has the larger number of members, and, except in a very few states, the members serve for two years. The upper chamber is always called the senate, and the length of a senatorial term is, in a great majority of states, four years, one half going out each two years. The two houses together are referred to as the legislature, the general assembly, or general court. The number of representatives varies from thirty-five in Delaware to about four hundred in New Hampshire; the number of senators from seventeen in Delaware to sixty-three in Minnesota. Except that representatives may in most states be chosen at a younger age, and may have a shorter period of residence than senators, the qualifications for membership of the two houses are about the same. By law or custom each must live in the district from which he is chosen, the senatorial district naturally being the larger.

Districting the state. — Generally it is provided in the state constitution that a legislative district for either house must be composed of contiguous territory, and that counties may not be divided unless entitled to more than one representation. Redistricting of the state is generally done by the legislature soon after each federal census report; hence, as the population of a state increases, a member of its legislature represents more people. When it is found that the political map, as of a legislative district, or congressional district, or of a whole state, is so arranged "that the voting districts are unfairly or abnormally arranged, for the purpose of advancing the interests of a particular party or candidate," it is said to have been *gerrymandered.*

Sessions. — Each state, either by statute or by its constitution, sets the time for the meeting of the legislature or general assembly. Annual sessions were formerly universal, but now only a very few states hold them, notably New York and Massachusetts; in most of the states the sessions are held every two years. The legislature meets at the capitol of the state, and the session generally lasts sixty days, though in some states it lasts longer, and in some it is limited to forty days. The governor may call the legislature into special session if he deems it necessary, or, in some states, the legislature itself may adjourn for a time and then reconvene. In many states, when the governor calls a special session of the legislature, he must state specifically what he wants done, and only that business may be taken up. The pay is generally a certain per diem while in session only, but many states pay an annual salary. It is an admitted fact that the important work of law making is too often left to inferior and mediocre

men, the pay for service in the legislature being too small to tempt men of exceptional ability.

Organization and legislative powers. — The legislature is organized much as is the Federal Congress. The lieutenant governor in most states is president of the senate, and the house chooses its speaker. In both bodies standing committees are appointed, to which bills are referred when introduced. In most states a majority of the members in each house constitutes a quorum. Bills must be reported from committees and pass both houses before they are sent to the governor. The committee system has its advantages in allowing more bills to be considered and carefully examined, but it also affords great opportunities for the corrupt lobbyists and special interests to exert their influence. Lobbyists, sometimes called the " third house," are of two classes: the good lobbyists who use their moral influence only for measures that will benefit the whole state, and the corrupt lobbyist who uses sinister influence to defeat helpful legislation by threats and bribes. This " third house " has led to a general distrust of all legislatures. The powers of the two houses are practically the same, but in some states bills for revenue can originate only in the lower house. The lower house also has the sole power to impeach, with the senate acting as the jury. In New York, the judges of the court of appeals sit with the senate in impeachment cases. In short, the duty of the legislature is to pass any needful legislation for the best and highest interest of the state.

Prior to 1913, joint sessions of the legislature elected United States senators in each state. In some states, certain state officials are chosen in joint session.

Restrictions on legislation. — Some restrictions on legis-

lation are found in every state, though they vary somewhat in the different states. In accordance with the Federal Constitution, legislatures are prohibited by their state constitutions from granting titles of nobility, making treaties, coining money, etc. In many states special legislation is specifically forbidden. Private and political rights are well guarded. Owing to public mistrust, the tendency at present is perhaps to restrict legislatures too much. Such an attitude is inconsistent in a progressive democracy. The remedy would seem to be to make shorter and less cumbersome constitutions, to quit the unjust and indiscriminate condemning of all legislatures, and to demand higher qualifications for those whom we elect to this office.

The governor's veto. — In almost all states the governor is given the veto power. After a bill has been reported from a committee, discussed, amended, and read three times, it is put before the house. If it receives a majority of the votes of that body, it is ordered engrossed and is then sent to the other house, where the same process is gone through. If the last house which receives the bill concurs with the one originating it, it is sent to the governor; if not, it is rejected or sent back with amendments. If the bill reaches the governor, he may sign it or veto it; if he vetoes it, he sends it back to the house where it originated, with his objections. The bill may still become a law if it is passed over the governor's veto by a majority, generally two thirds of both houses. If we could get stronger, abler representatives in our state legislatures, the governor's veto would perhaps become obsolete. Under the present conditions it still serves as a useful check on hasty, sometimes vicious, legislation.

The Executive of the State. — In every state in the

Union the chief executive officer is the governor, and various minor officials assist. In nearly half of the states the governor, who is always chosen directly by the voters, is elected for four years; in one state, for three years; in two states, for one year; in all the other states, for a two-year term. In nearly all the states the election is by a plurality of the votes, but in a few the legislature elects in case there is no popular majority. Some minor officials of a state are elected in the same manner as the governor; many are appointed by the governor; and in a few states some are appointed by the legislature. The governor and other state officers not appointive, are nominated by a state convention of delegates, or by a state-wide primary.

The Governor. — The governor, as the first official of the state, receives a salary varying from $2,500 to $10,000 a year; in Illinois his salary is $12,000. In addition to seeing that the laws of the state are enforced, he has the following duties: —

1. He sends a message each session to the state legislature, in which he discusses the condition and needs of the state generally, and makes recommendations for appropriate legislation. The legislature, however, does as it pleases with the governor's recommendations, though it usually conforms with them, at least in part. He may also send special messages.

2. He may call a special session of the legislature, if he deems it advisable.

3. He exercises the veto power, except in one state of the Union, where he is denied its use.

4. He is the commander of the state militia, and may send it where local authorities cannot preserve peace.

5. He appoints a number of minor officials in the state.

6. He has, as a rule, the power to pardon or reprieve criminals, but in many states this power is shared with a board.

The Lieutenant Governor. — In most states this official is elected for the same term as the governor, with a per diem payment while the legislature is in session, or he receives an annual salary. Though president of the senate, his influence is not especially great, his office bearing the same relation to the state as that of the Vice President to the United States. In most states the lieutenant governor succeeds the governor in case of the latter's death or resignation.

Other Executive State Officials. — These officials vary in the states in name and number, but the chief administrative officials are about the same, with like duties; and almost all of them have a number of secretaries, clerks, and assistants as helpers.

The *secretary of state* places the seal of the state on all authentic documents, publishes the laws, draws up commissions for public officers, and performs many other similar duties.

The *auditor*, or *comptroller*, serves as the state's public accountant and bookkeeper. He must keep a record of all the state's income, and of all appropriations and expenditures. In this capacity he serves as a check to the treasurer.

The *treasurer* receives and has charge of all the state's money, which he disburses under the auditor's direction.

The *attorney-general* is the state's legal adviser. He advises any state officer when called upon to do so, and represents the state in any legal transaction. To-day,

owing to great business activity, and lax observance of law, the office of the attorney-general has become more responsible and important.

Besides these officials, some states have a state statistician, mine inspector, game warden, forestry inspector, geologist, and other officers. Most states have a superintendent of public instruction. This officer, it is commonly conceded, is the only one who usually does not receive consideration commensurate with the importance of his services.

Relations of Various Executive Officials. — The chief officers of the state have some interrelated powers, but, on the whole, are virtually independent of one another. All are usually elected by the people; hence even the minor state officers have been independent of the governor in times past, although submitting reports to him at stated times. Recently, however, a tendency has been widely manifested to increase the power of the governor over minor state executive officials. Naturally, in a well-ordered administration, there should be coördination, counsel, and harmonious action on the part of the state officials in order to get the best results.

As yet, only a few states such as New York, Massachusetts, and Wisconsin, have adopted a civil service system applying to clerkships and assistants. This seems strange, since this would be the surest way to prevent the public from suffering wholesale shifting of officials with the change of administrations, such as was common under the old spoils system. There is room here for great reform in our state civil service, as well as in that of the nation.

State Boards. — In every state there are certain boards whose members are appointed by the governor or by the

legislature, or both, that greatly assist in the executive work of the state. Among these boards are: the board of health, the board of agriculture, the tax board, the insurance, pardons, prisons, and railroad commissioners. The powers of these boards vary in different states. Generally, they are responsible to the governor, but sometimes to the legislature. Some members of these boards are paid good salaries, but many of them receive little or no pay for their work, it being considered an honor to serve the state in this capacity.

Present Influence of State Officials. — While all state officers are doing a necessary work for the public service, the work of a majority of them is largely clerical. Mr. Bryce, in treating of our state governments, shows that the power and influence of the governor has largely declined, owing to the increased power of the legislature and the development of local government, but adds that he is not yet quite a nonentity.[1] Since 1900, many states have greatly increased the powers of their governors; notably, Alabama, Kansas, Ohio, Oklahoma, and Virginia. To-day a governor who is a leader and a man of force can secure the passing of almost any reform measure he wishes if he arouses public sentiment in its favor. The initiative and referendum, to be discussed later, has a tendency to weaken the governor's influence somewhat, but not seriously. On the other hand, the growth of our great public and private business enterprises of to-day increases the responsibility of the governor and therefore his power, or should do so, if he properly guards the rights of the public. The old states' rights questions are arising every day. The

[1] Bryce: "The American Commonwealth," I (3d ed.), 494–498. Cf. Kaye, 265–271.

attorney-general, the state superintendent of public instruction, and boards dealing with health, conservation of resources, and transportation, have a greater constructive work before them than ever before, and they find their power growing.

The State Judiciary. *Selection and term of judges.* — In the early history of our country, judges higher than those of the petty local courts were appointed either by the governor or by the legislature. But, early in the nineteenth century, Mississippi led off in the election of judges by popular vote, and to-day in most of the states the judges are elected by the people. In some of the other states they are appointed by the governor, in others by the legislature. At first the term of a judge was during good behavior, or, in some cases, was limited to seventy years of age. Gradually this was changed, until to-day judges are limited to a term of years in all states except Massachusetts, New Hampshire, and Rhode Island, where they hold office for life, or during good behavior. Gradually the length of the judicial term was shortened until the latter part of the nineteenth century. At present the tendency is decidedly to lengthen it, except in some of the Western states, where the people may recall them for cause.

Supreme Court. — The constitutions of all the states provide for a high court of final review and appeal. In most states this is called the supreme court; but in Kentucky and a few other states it is known as the court of appeals. The supreme court sits at the state capital in nearly every state, but in a few it holds sessions also at other places in the commonwealth for the convenience of the public. Ordinarily it has from five to seven members,

elected in nearly all states for a specified term of years. These elections are generally so arranged that only a part of the court is elected at any one time. This insures stability and consequently greater efficiency. This court's business is nearly all appellate, but it has some original jurisdiction. In Texas there are two supreme courts, one for criminal cases only, the other for civil cases. The decision of a supreme court is final, and, unless there is some violation of a federal statute or of the Federal Constitution, its decision stands as the law of the state.

In New York the supreme court is the name given to a court corresponding to the circuit court in other states; it is intermediate between the county court and the highest court, which is called the court of appeals.

Other courts. — Below the supreme court in rank are the county courts and the district or circuit courts, and lowest of all are the courts held by justices of the peace. In a few states, also, an appellate court has been created to relieve the supreme court of part of its work. It hears certain kinds of cases on appeals or writ of error only. Its decision is final, except in a few cases, where the state constitution allows a further appeal to the supreme court.

Connected with courts are found a number of assistants, such as reporters, clerks, and stenographers, some of whom are elected by the people, while the minor ones are appointed by the court itself.

Relation of state courts to federal judiciary. — Thus it is seen that each state has different courts with duties defined by the state constitution or state statutes; also, that an important case may be tried successively in two or more of them before it is finally adjusted. The federal courts *also operate* in every state, and each state comprises one

or more districts for the United States District Court. It should be noted, however, that the federal and the state courts are entirely independent of one another, and that each has its own officials and meeting places. In important cases, however, a citizen may file a suit in the federal court after it has been heard in the highest tribunal of a state, but only when it can be shown that a federal law is involved, or when he feels that the decision of the state court is contrary to the United States Constitution. Neither can the acts of a court of one state be binding on the courts of another state, though their decisions are constantly quoted; however, if a matter is settled in one state, and the party concerned in the suit moves to another state, by Article IV, Section 1, of the Federal Constitution, he cannot become involved again for the same cause before adjudicated.

Increased Importance of State Courts. — The more complex our life becomes, and the more intricate our business interests are, the more important the courts become. The right of a supreme court to declare an act of the legislature null and void gives it great importance and dignity; again, when a statute of importance is closely examined and carefully weighed, the supreme court gives its decision and analyzes the statute, and the interpretation of the supreme court establishes the law. In this way the rulings of the supreme court in the various states, supplement, in a large measure, the action of the legislatures.

Danger to Courts. — There is constant danger to the courts in almost every locality. This is often due to the fact that judges have short terms and hence must participate in frequent elections from which they do not always escape with clean hands; then, too, patronage is to

be given out, and this is an element of danger; and, again, salaries are small, much too small in some states to attract the best lawyers. In some communities good lawyers will not accept judgeships since it means financial sacrifice, and very often precludes advancement in the legal profession. Serious dangers sometimes confront our state judiciary from allowing business to accumulate on account of the dilatory tactics of the lawyers. A great amount of the state's money is often squandered in this way and the real issue dodged and justice evaded by mere technicalities. Courts have themselves largely to blame if the public sometimes becomes distrustful, and if law is not observed as it should be. In business methods and in the expedition of affairs before them, our state courts have frequently not kept up with our rapid, progressive life. In this criticism it must be observed that the public desires the courts to be revered above every institution we have, and wants their decisions respected and held sacred. The law governing them is generally good, or may be made so; and to the law and the courts we must look for the safety of every public interest.

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SUGGESTIVE QUESTIONS

1. Which limited a state more, the Articles of Confederation, or the Constitution? Why?
2. How do states change their constitutions?
3. How many members in your general assembly? How many representatives? How many senators?
4. Who determines how the state is districted for the legislature? How done? When done?
5. How long are the sessions of your legislature? Who is your representative? Your senator? Terms of each?
6. Duties of the legislature?
7. What is a lobbyist? Are all lobbyists evil? Why?
8. Why do not better men go to the legislatures? Suggest methods for remedying this condition.
9. Give chief duties of your state officials.
10. What are the relations between the various state officials of legislative, executive, and judicial departments?
11. Which are your highest courts? Duties of each? What relation has your highest state court to your circuit courts? To the United States Federal Courts?
12. Why are courts sometimes criticized rather severely? Suggest remedies for reforming courts and keeping confidence in their power to secure justice.

QUESTION FOR DEBATE

Resolved, That the judges of the supreme court of a state should be appointed for long terms by the governor.

CHAPTER XXII

CONTROLLING POWERS OF THE STATE

The Employment of Force. — When the Federal Constitution was adopted, the police power was left to the states, and there it remains. Under ordinary circumstances, the local authorities created by the state are able to maintain order and provide for the public welfare; if they are not able to do this, the state authorities assist.

The State Militia. — The organized militia of the several states, as stated elsewhere, is called the national guard. It is a citizen soldiery drilled at stated times and inspected by officers of the regular army when all the state's militia is in camp during the summer for military exercises, at which time it is under the same rules and regulations as the regular army. The militia elects its own officers, and is equipped by the secretary of war. In case of need, it may be called into service by the President. There are over 100,000 men in the national guard. These men attend to their ordinary civil duties, except for the few evenings required for drilling and the few days of encampment. If the police power of a city or the sheriff of a county is unable to preserve peace, every state provides that some officer, nearly always the sheriff, shall call upon the governor for aid. The governor inquires into the situation, and if he deems it advisable, employs the militia, or part of it. Should the militia of the state not be able to cope with a *riot,* strike, or similar disorder, the governor may call upon

the President, who orders federal troops to assist the national guardsmen.

Who Are the Citizens of a State? — Nearly all states require citizenship of the voters, but some states allow a foreigner to vote upon the declaration of intention to become an American citizen. There is considerable difference in the time required for citizenship in the various states, especially of immigrants; but all require a fixed period of residence in the state, and also in the county and the precinct. Immigration will be discussed more at length in connection with the city. As has been pointed out, Congress regulates immigration and naturalization, but the state controls suffrage. Very often lax laws and their nonenforcement cause difficulties when the question arises as to who may vote and who is entitled to the rights of a citizen. Educational and even property qualifications are required of voters by some states, in order to safeguard the ballot, and in many states a longer period of residence is being required of naturalized foreigners than formerly. While we invite and need good immigrants, it would be better for the states, and for the immigrants, if the right to vote were not granted too hastily and easily.

Control of Nominations and Elections. — Strict laws are necessary to control elections. The terms of officers of the township, city, county, and state are short, hence elections are frequent. Two methods of nomination have sprung up and are in use in different states: the convention and the primary. In some states it is provided that a candidate may be voted for if a petition signed by a certain number of voters is properly filed. In a small unit, like a ward or township, all citizens may meet in mass convention and vote to nominate their candidates; also, while

so assembled, they select delegates to a county convention, if the candidates for county officers are to be named by a convention; again, generally at this ward or township convention, delegates are selected to attend the congressional district and the state conventions. The number of delegates to which a county is entitled in a congressional or state convention is regulated by law and party machinery. The delegates to the various conventions receive no pay for their services. At a certain date agreed upon by the party organization, county and state officers are nominated.

Much criticism has been made of the convention system, since it allows great opportunities for intrigue and sharp practice on the part of crafty politicians. As a result, the primary has arisen, whereby any one may offer himself for any office, and the one receiving a majority of the votes of his party is declared the nominee. The primary method is being extended, and, while it is not perfect, it is democratic. At present many states apply it to the selection of all state officers and for the nomination of congressmen, senators, and even to delegates for presidential nominating conventions. All states must, and now do, regulate both nominations and elections by strict laws. The manner of holding elections, however, differs somewhat, but everywhere secrecy of the ballot is secured for the protection and independence of the voters. Political parties and their machinery are discussed more fully in another chapter.

Woman Suffrage. — The woman suffrage movement is gaining in strength in the United States. Already nine states have granted women the right to vote on equal terms with men in all elections, and in many others, about *one half* of the states in all, they may vote for school

officers. At the present rate of growth, it would seem that the movement, whether for ultimate good or not, will soon win in a majority of states. The subject of woman suffrage has aroused ardent champions and strong opponents, the arguments of whom may be read and heard everywhere.

Temperance and Prohibition. — Justice Cooley says prohibition laws "are looked upon as police regulations established by the legislature for the prevention of intemperance, pauperism, and crime, and for the abatement of nuisances." [1] States attempt to regulate the liquor traffic on the basis of safety and public morals, but methods vary. As early as 1851, Maine led off with a prohibitory law against the manufacture and sale of intoxicating liquor, except for scientific and medicinal purposes, and at present that state, Kansas, North Dakota, and Oklahoma, have constitutional provisions to the same effect. About as many other states also, at present, have statutes prohibiting the manufacture and sale of liquor; and about half the states in the Union have local option, by which cities, towns, townships, and counties may, by a direct vote, prohibit the sale of liquor. The liquor problem is a very hard one to handle and it seems must be settled slowly. There are many law-abiding citizens engaged in liquor traffic, but the retail liquor trade attracts a class of men often of a type who have no regard for law or regulations. Laws can be enforced only if public sentiment is behind them; hence poor results come if prohibition is forced upon a community unfavorable to it. In a situation of that sort illicit traffic goes on which is often worse than the open saloon. Where high license, which varies from $300 to

[1] Cooley: "Constitutional Limitation," 718.

$1,200, prevails, the worst element is shut out of the saloon business and police control is much easier; hence this is often offered as a better solution than prohibition. This, however, is open to question. A difference of opinion exists as to how best to bring about a better social and temperate community everywhere. Even the liquor dealers themselves see that law-breaking and disreputable men are the worst possible enemies of the business. Conditions, such as have obtained in the past, can never exist again. Whether it be by state-wide prohibition, or local option, the state will eventually solve intemperance through the general uplift of its citizens to right thinking and right living.

The Divorce Evil. — The divorce problem is sociological, and one that comes within the jurisdiction of the state. At present, every state except South Carolina has its divorce laws, but there is no uniformity in these laws and the system in general is chaotic. Some states make it exceedingly difficult to obtain a divorce, others make it ridiculously easy. Some require a long residence before a divorce is granted; others a short one only; some states prohibit divorced persons from marrying again, while in others they may marry again at once. In spite of the fact that divorce has become so common, even among prominent people, it is still true that almost every divorce suit means a scandal; the home is broken up, and innocent children are placed in a situation which often mars their lives. Chicago has recently created a court known as "The Court of Domestic Relations," whose duty it is to hear domestic troubles and to adjust them, if possible, without granting a divorce. The causes and various proposed remedies of the divorce evil cannot be discussed here,

but the subject is one that demands our deepest and best thought. Whatever may be the final solution, greater care should be exercised by the state in its marriage laws, and there should be state uniformity in granting divorces.

Labor Legislation. — To protect laborers, especially women and children, is the duty of the state. Nearly all states now have child-labor laws, since children are being employed in some industries because they are more nimble than adults and work for smaller wages, but the result, frequently, is men and women deformed in body and undeveloped in mind. Nearly all the states appoint factory and mine inspectors to look after the welfare of the employees, and about two thirds of them have a state labor bureau. Prior to the Civil War labor unions and organizations were small and weak, but to-day there are about two million men in the unions. About one fourth of the labor of manufactures and of railroads is unionized. The object of the union has been to secure shorter hours of labor, better light and sanitation in factories and shops, a better wage, and fairer treatment for employees. The national government has helped organized labor, in particular, through allowing national trade unions to be incorporated, and has limited the hours per day on public works to eight; also, through the organization of a cabinet position which now gives all its time to considering labor's problems and its general uplift. This official is a great aid to the states in dealing with their labor problems.

Labor and Capital. — The greatest demand of labor everywhere is a wage commensurate with the productive value of the output. Who shall determine what this wage shall be? Here is often the cause of serious trouble. Capital rarely pays in wages what it could do and still

make a fair profit. Again, labor organizations demand, at times, a wage that an establishment cannot pay and compete with its rivals in the same business. Then comes industrial warfare. Picketing, the boycott, and the strike are the leading weapons of organized labor in their demands for higher wage, and in their attempt to keep industries from employing other than union labor. All these methods are growing less frequent; and it is well, for the strike, especially, has resulted frequently in the destruction of life and property, in loss of wages to the laborers, and in social demoralization to the community. Both labor and capital are beginning to understand that a third party, consisting of the public generally, should be considered. Where public sympathy goes, there is generally the right. About one third of the states have boards of arbitration composed of employers and employees, so that when labor disputes arise an investigation occurs, but these boards cannot make a settlement unless both sides to the controversy agree to rest the case in their hands. It will be seen that the state has a heavy duty on hand to provide all possible safeguards for the rights of capital and labor, and so to legislate that there will be no injustice done by either; also, to see that there shall be industrial peace.

Crime and Penal Institutions. — The punishment of crime under our system belongs almost wholly to the state. It is true the federal government defines certain crimes, such as counterfeiting, and is constantly defining new crimes and creating penalties. Most crimes, however, are punished by the states, generally under laws passed by the legislature, but occasionally under the common law, which is in force in nearly all the states in cases not covered by statutes. In general, anything is considered a crime that

is declared to be injurious to organized society and which has been prohibited by law. No attempt is made here to give the causes of crime, nor the remedies for it, but the purpose is to state briefly the position and duty of the state in the matter. The purpose in apprehending a criminal and punishing him was formerly vengeance; now it is to protect society and reform the culprit. Crimes are investigated by grand juries, and arrests made by sheriffs and constables in counties, and in cities by a police and detective force; courts and juries organized under state law hear the evidence and render decisions. History shows that severe punishment has not lessened crime, and so the more recent theory is to grade and classify prisoners according to age and the degree of the offense, and to try to reform them. To that end prisons and reformatories have schools where inmates are taught trades, and all are made to labor. Sentences, except for the more heinous crimes, are made indeterminate; that is, a minimum and a maximum penalty are imposed. Through good behavior, a prisoner may be paroled by a board prescribed by law, after he has served his minimum sentence. Competent authorities have estimated that crime in the United States costs the state and national governments about $200,000,000 annually, an amount almost as large as that spent for education; and one authority estimates the loss which criminals inflict upon society at $400,000,000 annually. From 1890 to 1910, it is maintained by competent authorities, there were more murders committed in the United States than there were Union soldiers killed in action during the Civil War. Juries and courts are much too lax in punishment in many criminal cases, and some prisons are made so pleasant that men are but little alarmed at the

prospective sentence. In many states juvenile courts are set up to reform criminally inclined children and youths. These courts will be discussed under city government.

Initiative and Referendum. — All states may amend their constitutions in some manner provided in the document itself. In a few states, notably Oregon and Colorado, eight per cent of the voters may propose a constitutional amendment; and if a majority of those voting on the proposed amendment are favorable, it becomes a part of the state constitution forthwith. This method is called the initiative. It means simply that the people, or a specified part of them, may propose a measure, — or ordinance, a statute law, or a constitutional amendment, — which is submitted to the whole electorate for adoption or rejection. The referendum likewise gives the people of a state or city, or a specified part of them, the power to suspend a law or ordinance passed by a state legislature or city council, so that the whole electorate can vote on it and decide whether it shall be adopted. In the two states mentioned above, eight per cent of the voters may petition to have any proposed legislation submitted to the people; five per cent of the voters may compel any law passed by the legislature to be referred to the people. The danger of proposing both constitutional amendments and laws in this way lies in getting too many of each before the people at one time for proper consideration. In the election of 1910, the voters of Oregon had to vote on twenty proposed statutes and twelve constitutional amendments, one of which had thirty-six sections. However, a pamphlet of two hundred and two pages explaining each, giving the arguments for and against each measure, had been in the hands of the voters a few months before the election. It

will be noted at once that by this method the form of our government is fundamentally changed, to some extent, as the people may govern directly instead of through representation; but nearly all the laws are still made by the legislature, the new methods being used chiefly as a means of control in exceptional cases. The system has worked well in Switzerland for a long time, but Switzerland is a very small country, and its people have had many centuries of political training.

It is too early to see what may be the result of this manner of direct legislation in this country, but it need not be alarming; it is an interesting experiment, and if proved harmful, the people will correct it. The success of this system may be doubtful in its application to large areas, where the people may not take sufficient interest in public affairs to inquire who is originating certain measures and what the measures really mean. Again, when harmful laws are passed, it is hard to locate responsibility for evil, and hence the system tends to keep the people unsettled. The referendum is no novelty, for, in submitting constitutional amendments to the people of the states, in leaving the liquor question to a township or county in local option, in allowing a subsidy tax for a railroad, and in many other ways, the referendum has long been in practical use in most of the states. The initiative principle has been exercised in a lesser degree in the allowing of elections to be held upon certain questions by petition, or by nominating a man for an office by petition. By 1912 the initiative and referendum had been adopted in some form in Arkansas, Colorado, California, Illinois, Maine, Missouri, Montana, Nevada, Oregon, Oklahoma, South Dakota, Texas, and Utah, the most radical being in California, Oregon, and

South Dakota. About half of the states have the referendum for some or all of their cities, particularly in granting franchises.

The Recall. — What is known as the recall goes even further toward pure democracy than the initiative and referendum. Under it, a certain fixed percentage of the people, varying from five to twenty-five per cent, may file objections to an official, and he must submit to another election with other candidates, before the end of his term. If he wins, he continues to serve; if he loses, he is removed, and the successful candidate assumes his position. In Seattle a mayor was recalled in 1911 for nonenforcement of the law. In the Arizona constitution, presented to Congress in 1911, the recall applied to judges, as well as other officers, and the bill admitting it as a state was vetoed by the President, mainly for the reason that he felt the recall of judges to be dangerous. The constitution of Arizona having been amended by omitting the recall of judges, the state was duly admitted. But then, by the regular process of amendment, the provision was again inserted in the constitution. California also has an amended constitution permitting the recall of judges. In dissatisfaction against courts the attempt is made to regulate them by the recall.

Conservation of Natural Resources. — *Soil.* — As the time is almost at hand when the United States must cease food exportation so that its products may be used to feed our own population, it is high time we were trying to conserve our soil. In this effort the national government encourages the states through the department of agriculture and in other ways. The states, also, are encouraging the improving of the soil and intensive cultivation, in many ways,

and, since our wealth all comes at first hand from the soil, too much encouragement cannot be given. State agricultural colleges are doing excellent work in training young men in scientific farming, in stock raising, and in forestry. Young women are trained in these schools, also, especially in dairying. The common schools of many states are making a course in practical agriculture compulsory. Many states, too, give money for farmers' institutes, to be held in each county, where many practical problems are discussed. Never before has there been so much interest in country life, nor has there ever been so much chance for great usefulness on the farm as now, for educated men and women. All this means a conservation of the soil, a lessening of the high cost of living, and more thrift for the state if it be a good husbandman.

Irrigation. — The federal government has, since 1902, been aiding in irrigating arid lands in some of the Western states. Large tracts of arid land have thus been redeemed and sold to settlers, who pay for the land and water privileges in easy payments. The same policy is carried out by some of the states in redeeming arid and swamp lands. Sometimes there has been a question of the right of a state, where a river flows through more than one state, to use water for reclamation, but this right has been defined by the Supreme Court. There is now a widespread demand that water power be leased. Many states are adding much hitherto uncultivated land to their productive area, and thus are aiding in increasing our national social dividend of supplies.

Forest and mineral resources. — Some states are at present taking steps to save forests, oil, and mines. Many states are encouraging the planting of forests. All should do

this for the sake of the timber and for a saving of the soil for the future general welfare.

The federal government has also begun the policy of reserving forests and mineral tracts. The waste of coal has been enormous. It is estimated that if the output of that mineral continues to increase proportionately as it has in the last few decades, and the same waste keeps on, our present known supply of coal will be exhausted in one hundred years. Petroleum areas are rapidly weakening in their supply, and if the output keeps on at its present increase, it is estimated that the known supply will be exhausted by 1935.

Conservation is a problem for the states. In 1908 the governors of the states held their first general conference, and gave much consideration to the problem of conserving the country's natural wealth. Spurred on by present economic conditions, and by the activity of the federal government, the states are at last awakening to the importance of this great problem in economics. It is not clear just how far the federal government may make reservations within a state, for this raises the question of states' rights in the new form, but there is much for the states to do in the conservation of their resources, and if it is well done by them, the federal government probably will not interfere.

State Control of Public Service Corporations and Trusts. — An important question at present is the power of the state over corporations. The federal government may create and regulate corporations, such as national banks, and interstate railroads, but most of the corporations are chartered by the states. A charter is granted under state law by the secretary of state after an examination of the

purposes of the new organization shows that the law in regard thereto is complied with. Such corporations as banks, insurance companies, railroads, and mining companies, operating within a state, frequently have special charter requirements to meet, since they need close supervision.

Just where the dividing line is between the private rights of the corporations which manufacture and, in a large measure, control almost everything the public consumes, and where the state shall step in for what it considers the security of the public, is a very difficult question. States grant charters to great combinations of capital and try to regulate them, but in many suits, recently, the rulings of the lower federal courts and the interstate commerce commission, have been against the state laws. When railroads show in federal courts that a passenger rate fixed by a state railroad commission is too low for profit and is confiscatory, the state law is declared null and void. On the other hand, the restrictions of some of the states on corporations, such as the International Harvester Company, with its control of farm machinery, and the Standard Oil Company in its monopoly, have been held valid by state and federal courts.

At the present time, and especially since the Supreme Court has decided that only in unreasonable restraints in trade may a corporation be punished under the Sherman antitrust law of 1890, the power of the state over interstate corporations is not clear. New York, Indiana, and Wisconsin have taken advanced ground, in appointing public service commissions to examine into the granting of franchises and the rights of corporations, and also to consider complaints of the public. Corporations have come

to stay. In their nature they tend toward monopoly, which is always a risk. They deserve justice, nothing more nor less. The states should see that they get only that, and that the public interest is safeguarded. In this the federal government will unquestionably assist.

Insurance. — Every state to a considerable degree supervises both its fire and life insurance companies. Generally, an officer known as an insurance commissioner, or a state board of commissioners, has charge of this work. Both fire and life insurance companies deposit with the state a reserve fund bearing a given ratio to the amount of insurance in force in the state. Wisconsin now has a law which furnishes life insurance to its citizens at cost. In Nebraska, a mother's pension system has been enacted, providing, under certain conditions, for a stipulated sum of money for the rearing and maintenance of children. The tendency in insurance at present is largely toward state control.

Guaranty of Bank Deposits. — Oklahoma, one of the youngest of states, is the pioneer in guaranteeing the safety of bank deposits. It compels all state banking associations to contribute a fixed per cent for a reserve fund. This fund is drawn upon only when a bank fails. The law has not worked well in Oklahoma, perhaps largely due to the industrial and economic changes going on there. However, it has been amended so as to be more satisfactory. Kansas, Nebraska, and Texas also guarantee bank deposits. These states being older and more conservative, profiting by Oklahoma experience, have succeeded in so guarding their guaranty laws that they seem to be more satisfactory to both depositors and bankers.

Good Roads. — Besides conserving the health of its cit-

izens, perhaps no problem is of more vital interest to a state than the question of constructing and maintaining a system of well-graded, well-drained, and well-built roads. In this day of scientific agriculture and progress, farmers realize, as never before, the value of good roads. The good road may have a high initial cost, but it saves time, enhances the value of land, means quicker markets, better mail service, larger school attendance, and in every way a better community; hence it is much the cheapest in the end. In nearly every state the question of how to improve highways permanently is receiving great attention. How to build wisely and economically is a question which needs careful attention from the state governments. The federal government has appropriated money to experiment on road improvement with state aid. The idea is to help cheapen and assist rural delivery of mails; to set a standard in road building before the public; and to aid rural uplift generally.

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Source Material and Supplementary Aids. — Federal statutes on immigration and on the national guard can be obtained for the asking

from the war and interior departments. Calls of county, district, and state chairmen for conventions or primaries for nominations of candidates for the several offices. State statutes on divorce and liquor problems, and penal institutions may be procured. From the secretary of state in Oregon, copies of statutes on the initiative, referendum, and recall may be obtained. Any legislation on conserving mineral, timber, and water in your state can be obtained from your secretary of state.

SUGGESTIVE QUESTIONS

1. Why is the police power left with the state?
2. How many companies of the national guard has your state? Duties of?
3. How is it determined who are a state's citizens? What is the law in your state?
4. How are county officers nominated in your county? District officers as circuit judge, commonwealth's attorney, state senator, and congressman?
5. Find the leading arguments for and against woman suffrage.
6. When only is temperance legislation effective?
7. Why is the divorce question very hard to settle? Why do states vary in legislation on the subject?
8. What is the purpose of the labor union?
9. Why is there strife between labor and capital?
10. What is society's duty toward its criminal classes?
11. State strong points for initiative, referendum, and recall.
12. It is hard to distribute the laws on conservation of natural resources justly between the nation and states. Why?
13. What may a state do to solve the trust and monopoly question?

QUESTIONS FOR DEBATE

Resolved, That the county is the best unit for voting to determine whether or not liquors shall be sold.

Resolved, That labor unions should try to keep unorganized labor from working in any industry.

Resolved, That an amendment granting woman suffrage should be *added to the* Constitution of the United States.

CHAPTER XXIII

MUNICIPAL GOVERNMENT

Origin and Necessity of City Government. — As early as the Norman period in England (1066-1154), London was granted a charter and special privileges, and during the thirteenth century many towns bought certain special rights and liberties from their feudal lords. The towns of England flourished, and developed good government which found its way to the English colonies in America. Modified forms of English municipal government slowly arose in the colonies. It will readily be seen that towns and cities grew slowly in colonial days. Even in 1790, when the first census was taken, there were but six cities in all the colonies above 8000 in population. A municipal corporation smaller than a city is styled a borough, as in New Jersey and Pennsylvania, a town (a corporate body different from a town or township hitherto discussed), or a village. New York was the first city in America to receive a charter. The colonial governors continued to grant city charters until 1750. Since the Revolution the states have granted city and town charters.

It is obvious that whenever a population becomes dense, its problems are different from those of a thinly settled rural community, which may be readily governed under the regular township and county system. The town or city, with its factories, shops, stores, and residences, needs among other things more sidewalks, and more sewers;

also a police force, fire protection, and many other things not necessary to a rural community. Industry and economic conditions drive people into the cities and there the problems of public welfare must be largely worked out. To that end the various states grant special privileges to the towns and cities so that they may meet their own peculiar local needs. Over forty-six per cent of the total population of continental United States lived in towns and cities of over 2500 population in 1910. The increase in urban population over 1900 was over thirty-four per cent. The growth of urban population has been very rapid in America, in fact it has been so rapid that we have not learned how to care for it properly, and hence city government is the weakest phase of our governmental machinery. Something of the rapidity of the growth of our cities may be seen in the story of Chicago. In 1911 the first white person who was born in Chicago died. He had lived to see that city grow from an insignificant village to a city of over 2,000,000 people. The census of 1910 shows 1232 cities which had a population of over 5000. A great problem at present is to stop the rush from rural communities to cities.

Villages, Towns, and Cities. — Densely settled communities usually arise from good trading conditions; the better commercial facilities are, the larger the population grows upon a small area. Naturally, too, people must live in close proximity to their business, and as a result the more business a place has the more people collect there. Hence, villages grow into towns and then into cities. A village is a relative term, for what is called a village in one state may not be so called in another. Villages are generally small communities, smaller than a city in all sections of

the United States, and in the South and parts of the West smaller than a town.

Village government is always simple, since the population is small. In many states the village is not incorporated as a separate unit from the township or magisterial district. If it is incorporated, it usually has a constable, a marshal, a clerk, a justice of the peace, and a board of trustees, all of whom are elective, and whose duties are clear from their titles.

The town, as stated above, is in many states a chartered municipality intermediate in size between a village and a city. The town may or may not have a mayor as an executive. If there is no mayor, a town board of trustees, or commissioners, is the managerial power, and it enforces the law through a town marshal and a justice of the peace. This board of trustees is empowered to levy taxes, and to look after schools, streets, health, water, and other necessary public matters. The government is of a simple order as there are few or no hard problems to solve. When a community ceases to be a village or town and becomes a city, depends upon the state law. In some states 3000 people make a city; in others, 10,000 are required. Again, in other states cities are divided into classes according to size; the first-class cities being the largest. The cities of the lowest class (fourth, or sixth, or whatever the number may be) may be no larger than towns or villages.

Charters. — The city includes all the elements of village and town government, and as the great problems are in the large cities, they will be considered more in detail. The towns and cities are each incorporated by state law. They act for the commonwealth within their defined privileges in conserving the best local interests and doing those

things that do not concern the state at large. No town or city is ever free from state law or authority; each municipality must pay its part of state taxes and be answerable to general state law. In all states, however, cities are empowered by their charters to manage their local affairs, and the states generally do not interfere in any way with city business administration. Recently, in some states, the city charters have been so modified that state officials audit the city's financial accounts. The purpose of this is to avoid local official dishonesty.

The methods of granting charters are so varied in the different states of the Union, that it is difficult to discuss the subject in a limited space. In general, however, it is done in one of two ways: either the state legislature grants a charter to a town or city which meets the legal requirements; or the community organizes under statutory enactments providing for their so doing; in the latter case it gets its charter from the judge of the circuit court, or from the secretary of state. Allowing the state legislatures to grant charters to individual corporations is a slow and clumsy process. Besides, this method is open to several objections, chief of which is that there will be no uniformity in the charters granted for towns and cities of the same class. Many states secure uniformity in charters by the division of incorporated towns into classes, as above mentioned. Again, some states allow their larger cities to frame and amend their own charters, requiring only that they shall not be contrary to the state constitutions. Varied as city governments are, and in spite of the fact that they are constantly changing, their charters are fundamentally similar. In all charters are specified the powers that may be exercised, the boundary of the city or town, and such

restrictions as the state laws may prescribe. The state often prescribes the limit to which the city may incur indebtedness, and asserts whatever authority it reserves to itself. The plan of government, and the name or titles of the officials and their duties, are generally outlined and provided for by the charters.

The Council. — The legislature of a city is the council, composed generally of but one chamber. A few large cities, however, notably Philadelphia, Baltimore, and St. Louis, have a bicameral council. The council is an elective body, usually paid only a small salary or none at all, and serves generally for a term of two years, though in some cities its members are chosen annually, and in others for four years. When there is an upper house and a lower house in the council, the first named is ordinarily a small body and is generally elected by the voters in the city at large, while the lower chamber is usually chosen from the different wards into which a city is divided. Objections may arise to either plan of choosing a council. The ward plan, which is common in large cities, while democratic in that it gives every local unit a representative, also admits of the notoriously corrupt political organizations to be found in many of our larger cities. The members of these organizations get into the council for selfish ends; and, owing to the secure hold they have upon the small divisions of the electorate, they are often dislodged only with the greatest difficulty. In Chicago, in some of the poorer districts, aldermen having notorious reputations are returned repeatedly to the council and have grown wealthy through questionable methods. The hold these men have on their constituents is explained when it is stated that they give away annually, to the poorer members in their

wards, hundreds of pairs of shoes, large numbers of turkeys, and other donations at Thanksgiving and Christmas time, the value of which far exceeds aldermanic salaries. Of course the money used for the purchase of these gifts returns in devious ways to the aldermen who spend it. Perhaps the best way to select a council would be by the city at large, allowing the minority party proportional representation.

Procedure and Powers. — A city council proceeds with its business much like any legislative body. It has a fixed time for meeting, but may meet in special session, or at the call of the mayor, who, in many cities where there is a single chamber council, is its presiding officer. It has a code of rules, a system of committees on important affairs, such as ways and means, streets, health, and other similar matters, and keeps a journal. Proposed ordinances must be introduced and pass through three readings at different meetings, after which, if they receive a majority vote, they become laws, unless the mayor has the right of veto, which is the case in many cities. The powers of the city council vary in different states, sometimes even in the same state. Laws or ordinances that councils pass must not conflict with state or federal laws, for in that case they would, of course, be null and void.

In all city charters the raising of revenue is given especial attention, since wise financiering generally means a good city government, and because raising taxes, city or national, is a great responsibility. This revenue is generally raised by an added city levy laid upon all sorts of property, and, as a rule, is collected with county and state taxes. The council may also secure revenues through special assessment upon property holders for improvements made in

sewers or streets, and by granting special licenses for various kinds of business. It also has the power of taking private property for public use, and of issuing bonds, and of borrowing money within prescribed limits. Granting franchises or contracts for special utilities or privileges is also a method of getting considerable revenue. Generally now a council must sell franchises to the highest bidder for a limited period only; as, for example, use of the streets to a railway company, or rights to a gas company; and even in many cities a referendum is required to make the franchise valid. A certain per cent of the earnings of any valuable franchise should always go into the city treasury.

The Mayor. — The mayor is the executive officer of a town or city. In many cities he is president of the council, and in others he is not even a member of it. He is chosen by the people for a term varying from one to four years. Generally he has the veto power and also the power to appoint such city officials and boards as are not chosen by the popular vote. His appointees may or may not be subject to confirmation by the council. Recent action by many cities places more responsibility upon the mayor, since city councils have often proved false to their trust, especially in the disbursing of the revenue. It is the duty of the mayor to enforce city ordinances. Generally he appoints the police force, and in many smaller towns, he has judicial functions in the absence of a city court.

Administrative Departments. — In every city there are departments and boards to assist the council and mayor in carrying out ordinances. The work done by boards and commissioners in the larger cities is carried on in towns and small cities by committees of the council itself. Usually,

however, all departments are created by the council, and the mayor is given appointive power. Again, boards are created by the council, or elected by the people. In some cities, and in a few states, the governor is given power to appoint some of the city boards, such as police commissioners. At present there is a decided tendency to strengthen the mayor's appointive power, and allow him to appoint heads of the various departments and hold them responsible. The following boards or commissions are generally found in a city, some having fewer and others more: —

Police. — This board appoints a chief and members of the patrolling and detective corps.

Finance. — Comptrollers and assessors and collectors of taxes.

Education. — This board appoints a city superintendent as its chief agent, and through his advice the board appoints other teachers and school officers.

Public Works. — City surveyor and engineers.

Public Safety. — This board is in general control of the board of fire commissioners, the board of health, and the street inspectors; and, in some cities, of the police force also.

Charities. — A secretary or several persons are appointed to carry out the poor relief systematically.

In the leading boards mentioned the salaries paid are usually small. Locating responsibility has made the single commissioner plan the most successful, as in France, and a single commissioner is generally paid a larger salary. Each department employs a large number of assistants, and in large cities such departments as public safety and *the police* have small armies under their control. New

York City has at present over 10,000 men in its police force, and Chicago over 8000.

City Courts. -- Generally the judges of municipal courts are elected by the people. In many towns and smaller cities, especially in the South, the mayor has the judicial function and may hold court; but regular city courts, called police, magistrate, or municipal courts, are much more common. These courts may be divided into civil and criminal courts, but in either case they can act only under city ordinances and under state laws on matters of small importance. In some large cities an enormous number of cases of various kinds of offenses against city law come before these police courts. In New York there are more than 100,000 cases annually. It must be remembered that cities are under state law, and that the state's courts have jurisdiction over them as well as over the rural districts. Hence there will be no confusion about the powers of the circuit and superior courts of the county under state law as before discussed. Reform is sorely needed in city courts. Better men are needed on the bench to make these courts more efficient and more dignified. Where the city courts have no jurisdiction, the cases go to the state courts. An appeal may be taken from the city court to the circuit courts, generally; always, if a question of validity of city ordinances is concerned; and the appeal from the city court may even finally be taken to the supreme court of the state.

Civil Service. — One of the greatest evils in city government is the spoils system. Every ward has its petty bosses, and if these are not themselves candidates for offices, they put pressure upon the mayor and city council for their friends, often wholly incompetent and of questionable

character. This largely explains the widespread official incompetency and peculation in office. Where party politics is involved in city elections, the winning party often dismisses everybody of the opposition in office even down to the firemen, and to the humblest clerk, and the public pays the price while new and untried men learn their duties. Separating city from state and national elections has done much good; independent voting is increasing and is helping to remedy the evil somewhat. In many of the most progressive cities the citizens have learned to act on the principle that a competent official holding an important position should be continued in office regardless of what his views may be on religion, the tariff, or any other subject having nothing whatever to do with good municipal government and the public welfare. To this end civil service reform is being widely introduced in city government. This is true especially of subordinate positions; of the police department, the fire department, and clerical positions generally. Better service is thus obtained, as has been proved in cities like New Orleans, Chicago, and all cities of Wisconsin, Ohio, and Massachusetts where the plan is in vogue.

The Commission System of Government

Owing to widespread dissatisfaction with our municipal government, the tendency in recent years has been to view the city rather as a corporation, and its government as a business proposition. The study of municipal problems has developed clearly that nearly all towns and cities are overburdened with elective and appointive official machinery, which is not only expensive, but which instead of *making for a real* democratic government has frequently meant

a government of rings conducted by and for the benefit of politicians.

In 1901 Galveston, Texas, which had suffered the previous year from a terrible catastrophe, obtained a new charter which placed the city government entirely in the hands of a mayor and four commissioners. These officials were given complete authority to pass laws and administer the city's business. Good business men were chosen, each of whom took a department of administration and appointed competent subordinate officials. Excellent results were obtained. The Galveston system has been widely commented upon, copied, and improved, until now over two hundred towns and cities have the commission system of government. The cities using the system range in size from cities having a population of a few thousand up to and including such cities as New Orleans.

The Des Moines Plan. — After a careful study of the Galveston form of government, Des Moines, Iowa, adopted a modified and improved form of the commission plan in 1907, which has since been widely copied in outline and detail by other cities all over the country. The plan is presented briefly in general outline below. The Iowa law of 1909 provides that all cities of 7000 and over may adopt the commission system; also that any city, after having used the new system for six years, if dissatisfied therewith, may, by a majority vote, drop back into the class in which it belongs in the state, and resume its government under the law as prescribed by statute for a city of that class.

Des Moines chooses a mayor and four councilmen for a term of four years each from the city at large. A primary is held, at which the candidates for mayor or councilmen

are such citizens as have filed petitions signed by at least twenty-five electors. The names on the ticket are arranged alphabetically. In this primary each voter may vote for only one candidate for mayor and for only four councilmen. The regular election soon follows the primary, when the ballot contains for mayor the names of the two persons who received the highest vote in the primary, and the names of eight candidates for councilmen who had the highest vote. The candidate receiving the largest vote is declared mayor, and the four candidates receiving the highest votes become councilmen. Vacancies are filled by the council itself for the remainder of an unexpired term, and three members constitute a quorum. This plan, operating under a very strict election law, is intended to eliminate the boss and other corrupt influences. There are five departments in the city's government: —

1. Public Affairs.
2. Accounts and Finances.
3. Public Safety.
4. Streets and Public Improvements.
5. Parks and Public Property.

Operation of the plan. — The council, including the mayor, exercises all executive, legislative, and judicial powers. The mayor presides at all meetings, and is the head of the department of public affairs; the other members are chosen at the first session of the council, by a majority vote among themselves, each as the head of one of the other departments. They also elect by a majority vote such officers as a city clerk, solicitor, assessor, treasurer, auditor, civil engineer, chief of fire department, market master, police judge, and such other officers as are deemed *necessary to aid* in administering the government efficiently.

All these officials are responsible to the council, and may have their salaries changed or may be removed from office. The mayor supervises all departments, and reports matters needing attention in any department of the whole council.

All ordinances or resolutions must, in their complete form, lie for public inspection in the city clerk's office at least one week before they can become law; and no important franchise or public utility grant can be voted by the council until it has received a majority vote in a public election. A civil service commission is provided, which makes merit a basis for the selection of employees. Publicity is given to all of the council's proceedings, and each month the council must print, in pamphlet form, a statement of the city's financial status and submit the same to the newspapers for publication; also, expert accountants annually examine all books and accounts of the council. An incompetent mayor or councilman may be recalled by an election called for by a petition of twenty-five per cent of the votes cast at the last election. The voters of the city may not only veto a measure of the council by a majority vote, but may also initiate measures, and compel the passage of the same.

Merits of the commission plan. — Such in brief is the Des Moines plan. It has not met all expectations, but the following points are claimed for it: (1) directness, simplicity, efficiency, and economy in administration; (2) quick response to public opinion — a more thoroughly democratic city government; (3) greater civic interest and pride; (4) a united city for general improvement, as against one formerly of seven warring wards; (5) a general cleaning up of the city, politically and morally; (6) a short ballot given to the voter, so that he may know what he is voting for.

The same merits in general are claimed for other forms of the commission system. Scientific business methods are put into operation; expert help is employed; fewer officers are employed, and these must understand their business and attend to it; responsibility is at once located when anything goes wrong, and quick adjustment follows. It is really most democratic, in that it puts the people's business before them in such a way that they may intelligently see what their duty is, and what their agents are doing for them in the council.

Objections. — The chief objections that have been urged against the commission system are that it destroys the time-honored custom of dividing executive, legislative, and judicial powers; that it lodges too much power in the hands of a few men, thus making intrigue and political scheming easier; that instead of democracy the system creates, interprets, and enforces its own laws, and punishes their infractions; all of which is bureaucracy and unAmerican.

The commission system, however, is spreading, and is being perfected by experience as it grows. It has not been a cure-all for every municipal evil, but has so far been very generally successful. Moreover, it has aroused a healthful civic interest, which of itself is a great achievement; and as government depends upon an aroused public conscience, great good has resulted. The experiment is too new to predict its stability. If it will educate the city electorate, and make the people more expert in knowing what they want and in asserting it, the old forms of city government will pass away.[1] All over the country there

[1] See following additional references for the commission form of government: Hamilton: "Dethronement of the City Boss," 185–218; Munsey's *Magazine*, August, 1911.

are springing up organizations, such as the Reform League of Boston, the City Club of Chicago, and the Good Government Club of New York, which are studying municipal problems. Schools have caught the spirit, and a better day is coming in civic righteousness.

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Source Material and Supplementary Aids. — Make a map of your town or city. On it show your divisions into wards and school districts. Get the state statute on chartering towns and cities. Get the latest ordinances of your town or city and find out the duties, as defined there, of your mayor, council, and other officials. Send to the city clerk of some city having the commission form of government and get the plan as outlined.

SUGGESTIVE QUESTIONS

1. It is more difficult to get good results from government in our towns and cities than in state and nation. Why?

2. How is a town organized? Why are town and city governments different from that of the rural part of the community?

3. What class city is yours? Why are towns and cities arranged into classes?

4. How much money does your town raise and expend annually? How is it raised?

5. What taxes does your town or city raise which the rural community does not? Does your city pay county and state taxes as the rural community does?

6. Upon what is the money raised expended? Who expends it?

7. How are your mayor, council, and all other city officials nominated and elected? Terms of each?

8. State official duties of each municipal officer.

9. If you live in a small town or village, what is the difference in the manner in which it is governed when incorporated or chartered, and when it is not?

10. A city council should grant a corporation use of streets, or give it special privileges for only a short time. Why?

QUESTION FOR DEBATE

Resolved, That the commission system of government will solve municipal problems much more readily than the old forms are doing.

CHAPTER XXIV

PROBLEMS OF THE CITY

Health. — Where people have settled densely, many complex problems about health arise. The larger the city and the more congested the population, the more danger there is from disease, and the harder it is to secure good sanitary conditions. This means that towns and cities must have a health board, or at least a health officer, to supervise and look after general health measures. Some cities still maintain a municipal board of health, but to-day, many of our larger cities, as well as the great majority of smaller ones, have a single commissioner of health and thereby get better results.

The commissioner of health is generally appointed by the mayor or the council. His tenure of office should not be affected by politics, but should depend solely upon his efficiency. In large cities he has many assistants, such as inspectors, and collectors of vital statistics and other useful data. It is evident to cities, that their greatest asset, commercially, and in every other sense, is a healthful, contented, home-owning citizenship. To have good health conditions, officials must look after a great many things, among which nothing is of more importance than having good streets and keeping them clean. Street building and street cleaning are generally paid for by the city itself, or by the abutting property owners jointly with the city. Another important consideration is the sewage problem.

All street cleanings, sewage, garbage, and filth of all sorts, should be cremated, or otherwise carefully disposed of, since they are positively dangerous in themselves and also furnish breeding places for the fly and mosquito, both of which, it has been proved, are carriers of disease. Among other health problems we find at least six which are looked upon as of paramount importance to the community. They are: —

1. *Housing.* — Many houses, especially those built for rent, such as the tenements where the poorer classes live, are huddled together without regard to light or ventilation, or without sufficient warming in the winter season, or proper drainage and water supply. Again, overcrowding which leads to sickness and disease, is very prevalent. Many cities now inspect and regulate housing and building.

2. *Food.* — Until recently little attention was paid to food manufactures or to their products. Frauds of all kinds have been found in the labeling of foods, and so much that is injurious has been sold to the public, that there is now an enlightened public conscience on the matter, and hence legislation. By the aid of science, honest food and its producers are coming into their own. Statistics show that great infant mortality has often been due largely to the adulteration of milk supplied to our cities. This has led to a demand upon dairymen and milk dealers that they furnish unadulterated milk of the highest quality from healthy cows. The water supply needs to be frequently analyzed in order that it be kept strictly pure. Bakeshops and slaughterhouses, canning establishments, and candy shops too, all need strict inspection, and now have it in states and cities where there is a modern progressive spirit.

3. *Parks and playgrounds.* — Pure air and sunshine are among the greatest essentials of all good, clean, healthful life, and yet only a few of a large city's population really have them. To-day there is an ever-increasing demand for more parks and more playgrounds for both adults and children, where pure air and freedom from the city's rush and din may be found.

4. *Bathhouses and rest rooms.* — Another crying need in the crusade for cleanliness, health, and longevity is bathhouses. American towns and cities, generally speaking, are behind ancient Rome and the cities of Japan in this respect. However, many towns are furnishing bathing places, either free or at nominal cost, and all should do so. Connected with or separated from bathing places, rest rooms should be equipped where the public may enter without intrusion and where good drinking water is supplied. A demand for places of this sort arises both from the standpoint of health, and for protection to the public as an encouragement to temperance.

5. *Preventing infectious diseases.* — In a crowded population there is always danger of the spread of contagious diseases, which are often the cause of great expense and mortality. The city must have rigid health inspection and quarantine rules, must prevent such things as spitting on the sidewalk and in public places, and must furnish detention hospitals for the afflicted. All fair-minded, public-spirited citizens should submit willingly to a quarantine when necessary to prevent the spread of any infectious disease, and vaccination, and other preventive measures, must be attended to constantly. Medical and dental inspection of school children have been found of great benefit to the economic prosperity and general happiness of a community.

6. *Vital statistics.* — A record of marriages, births, and deaths is very important. By compelling physicians and undertakers to report the causes of deaths, contagious diseases may frequently be quickly checked. Eugenics and the prevention of disease are prominent aims of the twentieth century, and keeping well has become a matter of both public and individual interest. Conservation of natural resources amounts to nothing if the nation itself is weakly and sick. A children's bureau, before mentioned, has been created by Congress as a part of the department of labor. Its investigations will be published from time to time, and will greatly help the states as well as the nation.

Ownership of Public Utilities. — The tax levied for city expenditures is in many states limited by constitutions or statute law. In most cities a debt of only from two to ten per cent of the total assessment of their taxable property may be incurred. The amount is fixed in order to restrain city councils from reckless extravagance, and also to keep a rapidly growing city from getting hopelessly in debt, and its citizens from being taxed beyond proper limits.

Certain necessities, which at the same time are public utilities, naturally belong to a city. Under this classification would come, of course, streets, parks, sewers, school buildings, bridges, fire departments, and hospitals. The care of these utilities, especially in a rapidly growing town, necessarily costs heavily. The question is constantly being raised, how much farther ought city government to go in taking charge of other utilities which are ordinarily in the hands of private capital and private corporations, but which all the public either uses or is much *interested in?* Under this head come street railways,

water works, electric light and gas plants, and telephones. Would a city's population get better and cheaper service from this last-named class of utilities and necessities through municipal ownership than under the present arrangement? That is, would the public welfare be better guarded if the city should for itself do what is now in the main done by private capital?

From the nature of the last-named class of utilities, it will be seen that they must be of a monopolistic nature, since two or more street railways, water works systems, and lighting systems, cannot conveniently run through the same streets at the same time without endless confusion. Everywhere there is a tendency to limit the franchise contract between the city and a private company to a short term of years, and to award the city a certain per cent of the receipts of the corporation. Formerly, franchises selling the rights to use a city's streets were granted to corporations for an indefinite period, or from fifty to one hundred years. This allowed the corporation to reap all the gain of business and increase of the value of the property which comes with a thriving city, while the city got no benefit. A period of years must be granted sufficient for a company to get a fair reward for its capital if put into public utilities like water works or a street railway. Twenty years is considered long enough for a franchise now, and often a city inserts a clause reserving the right to buy the utility at its appraised value when the franchise expires. The franchise generally specifies something about the rates of transportation to be charged.

It will be seen that municipal ownership of utilities would involve an enormous expense, both to acquire and to operate, and since a city government has only the money

that it raises by taxation, few cities have so far tried the complete ownership plan. However, a great many cities do own and operate their own water works, gas works, and their electric light plants. So far, however, no progress has been made in public ownership of street railways in the United States, a condition common in Europe, as is true also of the other utilities generally in private hands in America.

Arguments in favor of municipal ownership. — 1. It would abolish corruption in politics. Much graft in city politics comes through private corporations owning a public service monopoly.

2. The city would give better service everywhere; while private ownership only gives its best service where the profit is greatest.

3. Service would be cheaper to the public. Water, gas, and electricity are furnished cheaper to the people in cities where the plants are owned by the municipality than in cities where they are owned and operated by private persons.

4. It aids civil service, and hence assists in preventing labor troubles.

5. The city can furnish cheaper service, for it can borrow money at a lower rate than individuals can; and of course, it pays no dividend on its investments.

Arguments against municipal ownership. — 1. City politics would be further corrupted by an additional increase of officers and laborers, who would fall into the hands of the politicians.

2. To buy and operate all public utilities would swell city debts beyond hope of payment.

3. Private management is more alert and progressive, *and hence* cheaper than public management.

4. It is denied that public ownership will stop dishonesty and peculation in municipal offices.

Immigration. — The national immigration law now excludes convicts, insane persons, paupers, polygamists, anarchists, and persons afflicted with loathsome and incurable diseases; also Chinese laborers and laborers coming under contract to do certain work. Certain skilled laborers from abroad, who come to work in specified industries in this country, are exempt from this law. Although the federal law is more stringent now, and imposes a per capita tax of four dollars on each alien landing on our shore, the immigrants still come at the rate of about one million a year.

According to recent statistics, the number of immigrants who come to the United States to remain is gradually growing smaller each year, and the greater part of these are from the poorer classes of southeastern Europe. These people, who differ in race and stock from most Americans, are, as a rule, more ignorant and more difficult to Americanize and assimilate than were the immigrants of northern Europe, who now come only in comparatively small numbers. There is little public land to be had, so these immigrants swarm to the cities, generally in the North, where they seek to earn a living as best they can. Thus immigration becomes at once a problem of the city. In some of the largest cities in America, the foreign-born population equals or exceeds the native-born. As a rule the housing, the sanitary conditions, and the wages among the immigrants are poorer, and the moral ideas, and general standard of living much lower than they are with native Americans. To correct these conditions is one of the great tasks confronting the city's school system.

Another difficulty to contend with is the tendency of the different nationalities to colonize in our large cities, and thus fall easy prey to politicians, which often retards the social and moral progress of a city. The popular notion that foreigners have increased crime in our country has recently been effectively disproved. The problem of the city is how to make these people over into Americans by giving them our ideals. Toward that end progress is everywhere being made. Immigrants have been and still are of great benefit to our country; and since there were only about seventy-two to one thousand of our population in the decade 1901–1910, there is little danger of their not becoming Americanized.

Labor. — Labor is really a national and state problem, and becomes one of the city's problems only on account of the immigration and the constant inflow from the rural districts. In the city the labor unions flourish in great numbers, and in times of prosperity there is no municipal labor problem. Only in periods of depression and of strife between employers and employed, do serious problems arise. To meet the problems of securing labor for the unemployed, many cities now provide free employment bureaus. Strikes, lockouts, and blacklists frequently cause a city great business loss and general demoralization. Arbitration is growing more common, due to the growth of a feeling that the innocent public, which is in the great majority in every city, is entitled to consideration and protection, and to the fact that in any situation that may arise, the best sentiment of every community demands that law and order must be maintained.

Juvenile Courts. — Recently courts to dispose of children's offenses have been created in many cities. It is

well known that many children who do unlawful acts are not criminals at heart. They fall in with "gangs" of older offenders and often unintentionally violate law. In the juvenile courts, the judge and the whole legal machinery becomes a correction agency, which gives the offender a chance to work out his own reform under good environment. Frequent reports are required of the delinquent. Many children have been saved from the stigma of a prison sentence by these courts and thereby made useful citizens. Denver, Salt Lake City, and Indianapolis have been pioneers in establishing juvenile courts.

Charity. — How to take care of worthy poor so as not to encourage poverty, thriftlessness, and at the same time add to this class of indigent persons those who can easily help themselves, has been a problem with nations in all times. It is estimated that about one twenty-fifth of the population of the United States is dependent upon charity in some form. Our cities, with their crowded populations, naturally have the greatest percentage of these unfortunates, and frequently have almshouses apart from those maintained by the county in which the city is located. The causes of poverty are numerous and their consideration properly belongs to sociology. There is no one way agreed upon which really solves the problem of relieving the poor.

Our large cities now generally have almshouses for their paupers over which are charity boards and secretaries who are paid salaries from the city treasury, their chief function being to investigate individual cases so as to prevent fraud. Private organizations and philanthropic individuals very often join with the city associations for the relief of the poor, and thus more effective work is done. Outdoor relief is practiced extensively. It works fairly

well in smaller cities and towns, where individual cases are well known and can be closely watched. By this system, as stated before, the person or persons assisted remain with their friends or families, and get some aid. This is cheaper for the city than to take all paupers to almshouses, and less stigma is attached to the recipient of aid; but this makes the system dangerous for the city, since under this plan the number of applicants is apt to increase. Many cities are careless in the management of paupers, especially of the vagrant poor, and really encourage them in pauperism and vagrancy instead of trying to reform them. The best results are obtained when a city compels its pauper class to do some useful work when at all physically able to do so. Work is preventive of pauperism, since it keeps people from becoming wards of a city, and at the same time it acts as a tonic to build up character.

Education. — The subject of education has already been discussed. Almost all cities and towns have school systems, which are under state control, yet have distinct and individual features of their own. A school board, generally elected by popular vote, or appointed by the mayor for a term of two or three years, and with little or no salary, regulates and controls the city schools. It is the city's problem to make its schools highly efficient, free from favoritism and politics, both state and sectarian, and to have them economically managed. Libraries must be maintained, trade schools equipped, domestic science taught, and in every way the schools must be close to the people. Our most progressive city school systems now provide schools for truants, and also for children who cannot advance as fast as the average student. There is

springing up a demand that schools, when graded, should make some provision for the segregation of the brightest pupils so that they may be allowed to advance as fast as possible. This supernormal element in our schools is estimated at only four per cent, but from these pupils a large city could often form several schools, and possibilities for developing scholars and leaders of thought would be greatly enhanced.

Markets. — The cost of living has in recent years advanced so greatly that it has caused widespread discussion by national, state, and city authorities. High prices have caused poverty and general discontent in our large cities, largely due to the fact that Americans, as a class, are the most particular and the most extravagant people about their food. Whatever else the economic factors having to do with the high prices of the necessities of life are, it is evident that commission men, those who receive consignments of food from outside a city and sell them for a certain per cent of the selling price for their fees, add very materially to the cost price of foodstuffs. In many cities, notably Indianapolis and Lynn, investigations have been made, which show that commission men and sometimes even middlemen have robbed both the producer and the consumer. Commission men and their friends among some of the middlemen have at times refused to receive more food; or if they did buy it, it was for such a very low price that shippers would not, or could not, sell in that city. Such a condition virtually created a monopoly and consequently high prices for the food on hand. This has caused unprecedented prices in cities even when the surrounding country had an abundance of food, especially fruit, poultry, and vegetables, to sell at low prices. Many coöperative socie-

ties have been formed, especially among labor unions, and even among certain fraternal orders, to buy foodstuffs in wholesale lots and deliver them at cost to the members of the societies. The market systems of cities seem to be antiquated, and should be reformed. There ought not to be a possibility of a monopoly in foodstuffs; for this is not only unjust but extremely dangerous. Improved market facilities are demanded everywhere. It seems at present as if an economic revolution were about to come which will bring the producers and buyers closer together to the mutual advantage of both. The parcel post system will undoubtedly be even more simplified, and, when well understood, can greatly aid farmers to reach city consumers. This would be a great step toward a solution of the problem of the present high prices of foodstuffs.

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Source Material and Supplementary Aids. — Reports and bulletins of your state board of health. City council reports of taxes raised and expenditures made. Text of bills in the council proposing to sell franchises. Bulletins from the department of labor on immigration. Police court proceedings, if they may be had in your city.

SUGGESTIVE QUESTIONS

1. Why do older and more densely settled rural communities have more health problems than the early pioneers had?

2. Who is your county health officer? Your city health officer? Duties of each?

3. Why is quarantining very essential?

4. State arguments for and against municipal ownership of public utilities.

5. Why is our number of immigrants gradually growing smaller year by year?

6. What would your police court, circuit court, and juvenile court show to be the chief causes of crime in your community? How might these causes be removed?

7. How is aid given to the poor in your county, or city, or both? Does it minimize the number of paupers?

8. How do you think the producer of foodstuffs and the real consumer might be brought together for the benefit of both?

QUESTION FOR DEBATE

Resolved, That all immigrants, except those having excellent health and property worth $1000, should be excluded from the United States.

CHAPTER XXV

EDUCATION: A PROBLEM OF THE STATE AND THE NATION

Education a Function of Government. — In early times education in Europe and in colonial America was under the control of the church, and only those who were comparatively wealthy obtained the full advantage of it. In the United States it was soon seen that a republican form of government could never be maintained if its electorate were ignorant. Education might be termed the fourth department of our government, and upon it the stability of the whole structure rests. While it is true that the Constitution says nothing about education, which is left entirely to the states, ample provision is made for its support. In every state provision is made for the maintenance of the various grades of schools supported by public funds. About 17,000,000 pupils, or twenty per cent of our population, are enrolled in our common schools under the instruction of 500,000 teachers. The church has no control, nor has wealth, and the public schools are open to the humblest child, to the end that future citizens may be made alert, strong, and efficient.

The Common Schools. — Early efforts to establish public schools were largely local. The schools were supported by private subscription and local help, and were under local officials. Gradually the states took control of educational affairs as they saw their duty more clearly.

They outlined a course of study, and designated a set of officials who should be in charge of the educational work. In many states a minimum school term is specified, as is also a minimum wage for teachers, who must pass strict examinations. The course of study in the common schools varies in different states, though the subjects studied are similar. In the city where the schools are graded, and only one grade, or a half grade, is given to a teacher, more subjects can be taught than in the one-room country schools. The courses of study are being revised constantly to meet the demands of the children in preparing them for citizenship and economic life. The public school resembles a hopper, into which children of almost every nationality and every form of religious faith are poured, and from which they emerge with the only preparation they receive for American citizenship. Since this is true, it can easily be seen why there should be a realization on the part of the state, that caring for and educating the young is its first and greatest duty.

High Schools. — In colonial times, in fact until about the middle of the nineteenth century, there were established private grammar schools and academies for children desiring to go further than the rudimentary education provided for by the so-called public school. But these were entirely too few in number to meet the demands of the masses of the people. After 1850, the high school movement became quite general, and high schools were added to the public school system. After the completion of the first eight grades in the common schools, a three-year or four-year additional course was added in a public high school for all those desiring it. The high schools have almost supplanted the academy and the seminary, and to-day many of them

give their students the same advantages that the smaller colleges formerly did, with much less expense. In the high school both sexes are educated, choice of courses and subjects is allowed, and there is a growing sentiment that special aptitudes and ability shown by pupils coming from the graded schools should, if of a useful kind, be fostered, encouraged, and developed. The high school also fits for the next higher step in education, the college and university.

One of the faults of the high school at present is that it is not sufficiently responsive to the people's needs, and not attractive enough to attract even half of those completing the common school course. Another fault is that the colleges and the universities have dominated it too much and held it in a groove, whereas the high schools should be next to the people, and further their interests; while the university, if it desires to be effective and helpful, should catch the spirit from the democratized high school, and make itself the climax of the best vocational and cultural education and life. The high school is doing a great work in the United States, and will still do much more as it becomes further established in rural communities; also, its influence should largely stop the educational leak evident from a comparison of the large number of students everywhere entering the high school with the small number who graduate from it.

Normal Schools. — It was scarcely realized before the middle of the nineteenth century, how important it is that a teacher should be especially trained for his work. When it began to be seen that no school could prosper, and no educational progress be made until a trained and efficient *corps of teachers* was provided, city and state normal schools

began to spring up, until now they are found in almost every state in the Union. They are supported by cities and by the state. Many states have several of these institutions and they are doing splendid work by putting trained teachers in the public schools everywhere.

Colleges and Universities. — It is very hard to define what is really meant when we call an institution a college or a university in the United States. Very many of our so-called colleges which are allowed to grant degrees are merely academies or high schools in fact, while many institutions called universities are only colleges. Some are denominational and sectarian, wholly supported by a church; others get their support from tuition and private endowment; while others derive their support from the state. About three fourths of the states now have state universities, and some states maintain more than one. About one third of the university students in America are now in the state universities, many of which are in the front rank of service and scholarship. The state universities and many others, as well as many colleges, correlate with the high schools, and allow the graduates of the secondary schools to matriculate without examination.

Thus a child has free tuition and many other essentials provided for him in the public schools; then the high school is opened to him; next the college or university offers him still further preparation for life. Few, if indeed any, other countries make such adequate provisions for the education of their future citizens as does the United States.

Supervision of Public Schools. — School supervision varies in different states. Every state has a superintendent of public instruction, or commissioner of education, elected for a term of years in most states, and appointed by the

governor in others. Again, nearly all of our states have a board of education, of which the state superintendent is a member. These officials have general supervision over all teachers and public schools of the state. Under these are county superintendents, and county boards of education, who generally supervise the work in the counties. The lowest units are the township and the district, which look after the employment of teachers, the equipment of schools, and minor details. All incorporated towns and cities have a supervising force in school boards, which employ superintendents or principals to manage the schools, a high school principal, and the other teachers. Experience shows that efficient supervision comes by close organization, and that it is expedient and profitable to centralize authority and responsibility in school affairs.

Support of the Public Schools. — The federal government is under no direct obligation to aid the school system of the United States, but it promoted the general welfare in aiding the new states (beginning with Ohio in 1802) by giving every sixteenth section of land in a congressional township for the use of public schools. Since 1848, the new states admitted have each received two sections; and Utah received four. Nearly 70,000,000 acres have been thus turned over to the states and sold for a school fund, which fund may ever be increased, but it is inviolate; only the interest may be used. Besides this large amount of land, nearly 12,000,000 acres additional have been granted by the government for the establishment and support of universities and agricultural and industrial colleges in all the states; while more than half the states, to which public funds were distributed during Jackson's administration, gave their share to their school fund. Through the sale of swamp

and salt lands, a per cent of the proceeds of which in some states went to the support of schools, the permanent fund has also been increased. Dr. Guitteau, in his excellent discussion of this subject, has a diagram showing whence the school revenues come, and how they are raised. It is shown that nearly $400,000,000 is now spent annually on the common schools of the United States. Of this sum local taxation raises 68 per cent; state taxation yields 15 per cent; miscellaneous sources (in many states this is composed of poll taxes, fines, and sales of liquor licenses) yield about 11 per cent; and the income from permanent funds furnishes about 6 per cent. Local taxation brings in the larger part of the educational funds for most of the states, but some states, particularly in the South, raise all or nearly all of their school funds by state taxation. This seems a poor policy, for it does not stimulate local interest in schools, nor does it awaken the best general school spirit. Also, it puts progressive and nonprogressive communities on the same basis.

Efficiency Needed. — Quietly a revolution is going on in educational methods and the subject matter taught. The schools must get rid of fads and nonessentials, and teach those things effectively which the people most need in order to live well and prosper. Care must be taken, however, in educating pupils to earn a living, not to swing over to a purely material basis by making our work wholly practical, and forgetting that the pupil must also be taught ideals — those finer things in life to which no money value can be attached.

Schools should be taught in attractive houses; the state should compel attendance, as most states do now, so that it should not have to support and perhaps punish the igno-

rant later; rural schools should be consolidated and graded, and high schools should become more numerous in rural sections, so that the poorest children may have access to them. Many states now pay for the hauling of the rural children to common centers where a graded school and a high school are provided, and they find it a profitable investment, since it makes for better sanitation, better health, and far better instruction. A higher qualification is demanded of the teacher, and the day is past when mediocrity has any place in the schoolroom. Everywhere it is beginning to be recognized that progressive school work can be done only by an efficient, well-trained, and well-paid teacher.

Cabinet Officer Needed. — Since 1867 we have had a bureau of education connected with the interior department. The head officer is called the commissioner of education, whose duty it is to publish statistics concerning the schools of the United States and issue annual reports. His work is important and valuable, but considering the importance of education, lying as it does at the very foundation of our national life, there should be, it would appear, a department of education, the secretary of which should be a member of the President's cabinet. Many foreign countries have long ago found this advisable and necessary. With the department of education might be joined a department of health, since these two go hand in hand. An arrangement of this sort would make for better organization and much more effective work all over the nation. No work is more sacred and vital than the training of our youth for future citizenship, and a cabinet department of education and health would add a dignity to the teaching profession that nothing else can give.

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SUGGESTIVE QUESTIONS

1. Why must the city, county, and state provide schools and educate their youth?

2. What is the function of the public school? If enough money does not come from the state to have a long term and a good school, can the district afford to pay a tax? Why?

3. How are high schools supported in your state?

4. What is the purpose of a normal school? Why should the state support normal schools?

5. Why should the state support colleges and universities?

6. Why should a sane, compulsory education law be rigidly enforced?

QUESTION FOR DEBATE

Resolved, That rural and city communities alike should, through local taxation added to state aid, be compelled to have at least an eight months' school term.

CHAPTER XXVI

POLITICAL PARTIES OF TO-DAY AND THEIR ORGANIZATION

Why have Parties? — The history of all nations shows that it is practically impossible to get along without political parties in government. Greece and Rome, when republics, had parties which differed on social and economic questions. People differ on ideas of government as to what is best for a local community, state, or nation. Whenever political and social questions arouse such interest that two or more plausible methods of solution present themselves, men organize political parties. These groups give themselves certain names, or sometimes are named by their opponents. They are voluntary associations, which begin organizing, agitating the questions involved, and appealing to the public at large for support. Parties adopt a platform of principles, which seems to them to be a correct interpretation of the leading issues before the people, of what the people want, and how to secure it. In republics there seems to be no way of conducting government except through parties. The framers of the Constitution hoped to keep down party spirit, but in vain. Parties furnish a method by which public sentiment can crystallize. They arouse interest, and educate the masses on matters of government, wrongly sometimes, even to the point of civil strife, but yet they educate. They develop a machinery for electing certain men to office, and when they are *elected, the party* and the public expect them to carry out

the party principles advocated. The party is the best medium, locally or nationally, to get quick action on measures, if the officers chosen are true to their preëlection promises. If they are not true, the next election generally puts another party in power. On local issues, small units or groups organize for given definite objects, such as improvement of roads and streets, and city ownership of water works, in which national issues are not in the least concerned. Such questions arouse public interest, yet they should never be mixed and confused with partisan politics, but should be settled on their own merits. National parties are much more permanent than local parties; and if they stand for fundamental principles, they wield a great influence in shaping a nation's history. Edmund Burke gives an excellent definition for a political party, on which it would be difficult to improve: "A party," he says, "is a body of men united for promoting by their joint endeavors the national interest upon some principle upon which they are all agreed."

Parties of the Past. — Early in American history, there arose two major parties based on fundamental differences in the interpretation of the Constitution. The Federalist party stood for a strongly centralized government, few rights to the states, and a broad, liberal interpretation of the Constitution. It was in power until 1801, when it lost control of the government and never regained it under that name. Many of its principles reappeared in the National Republican party, from 1825 to 1840; in the Whig party from 1840 to 1860, and finally in the Republican party of to-day. The Republican-Democratic party, the opponent of the Federalists, stood for a strict construction of the Constitution and more rights for the states. It was in

control nationally from 1801 until 1861, except during two terms. It dropped the name Republican during Jackson's administration, and generally speaking, is the Democratic party of to-day. It must be understood that parties change and vary as the times change, and the courses they take are sometimes contradictory and illogical. Many short-lived minor parties such as the Antimasonic party, Free Soilers, Know-Nothings, Greenbackers, and Populists are merely mentioned here, since none of them obtained national control. Some were sporadic without any permanent effects; while others left their impress upon one or both the dominant major parties before they died, and their principles were carried out by them.

Present-day Parties. — The Republican party has been in control of the national government most of the time since 1860. It has consistently stood for a liberal interpretation of the Constitution, a strong central government, a protective tariff, increased army and navy, and, in recent years, for colonial expansion and a single gold standard. It began as a radical party, but it has become for the most part conservative. At present, however, a large wing of the party is swinging toward radicalism.

The **Democratic party** has stood generally for a strict interpretation of the Constitution and states' rights. It has always opposed a protective tariff and imperialism; though divided on the money question, a majority of the party was for a time opposed to the gold standard. It has, in recent years, changed from a conservative to a radical progressive party, has favored a tariff for revenue only, strict regulation of common carriers, a divorcement of business and politics, an income tax, and the publicity *of all campaign* expenses before elections.

The Socialist Labor Party. — This is one division of the Socialists, which has had a national organization and candidates since 1892. In 1912 it adopted a very radical platform in which it gave its views about social conditions, condemned the capital-owning class, but offered little in solution for the problems it declared existed. It polled only a very small vote.

The **Socialist party**, organized in 1904, is a crystallization of several minor socialist and labor parties organized to help labor and the toiling, wage-earning masses. It has elected one member to Congress, and a number of mayors in our cities. In its 1908 platform it advocated collective ownership of all industries to be organized on a national scale where competition has ceased to exist, and demanded improvement of industrial conditions. In 1912 the platform called for the abolition of the Senate, of the veto power of the President, and for the abolition of the power of the Supreme Court to declare laws unconstitutional. It demanded a bureau of health, the abolition of the federal district courts and the United States Circuit Courts of Appeals, and wanted other federal judges elected by the people for short terms. The platform proposed many amendments to the Constitution, to settle what seemed to them serious problems of state. The Socialist party polled over 400,000 votes in 1908, and more than doubled that vote in the campaign of 1912.

The **Prohibition party** has had candidates for President since 1872. It stands above all things for absolute prohibition of the manufacture and sale of intoxicating liquors. Its main work, so far, has been educational, and in some states its agitation has forced one or both the major parties to restrict or abolish the liquor traffic.

The Progressive Party. — As a result of a bitter pre-convention campaign between President W. H. Taft and ex-President Theodore Roosevelt, and of contested state delegations at the Chicago Republican national convention in 1912, the followers of Mr. Roosevelt withdrew and launched a new party. This party held its first national convention also at Chicago, in August of the same year, and adopted a long platform, which includes many different subjects. Its principal declarations are in favor of direct primaries for nomination of all officials, direct election of United States senators, the initiative, referendum, and recall in the states, woman suffrage, the reform of legal procedure and judicial methods, minimum wage standards for women, and old age pension acts. It drew support from all parties, particularly on its crusade against the "unholy alliance between corrupt business and corrupt politics." Its principal support came from the Republican party, and its candidates polled the second highest popular and electoral vote in the national elections of 1912.

Organization of Parties. — There must be more or less machinery in managing a political party if its various elements are to cohere and act in unison. Beginning at the bottom, there will be found almost everywhere in a ward or a precinct, village, township, or town, a party organization just preceding and during a campaign. These lesser organizations consolidate into county or city organizations, which in turn choose members of congressional district, state, and national organizations. Generally, congressional district organizations select one member each, who form a state central committee which chooses a chairman, and this committee directs the campaign, state and

national, and even reaches down into city and county affairs. At the national convention each state chooses one member for a national committeeman who serves for four years. The national committee selects the place for holding a national convention, names its temporary chairman, and manages the campaign. It generally subdivides and establishes headquarters at several places for organization purposes; sends out speakers, scatters an enormous quantity of literature, and does an immense amount of personal work for its ticket. The state committee is primarily interested in the state ticket, but is also active in local tickets in cities and counties. Local committees usually have aspiring leaders who stir up sentiment for the whole ticket, from township assessor to President of the United States. Electing a county, state, and national ticket is a tremendous task, and requires great skill and sagacity. Platforms are drawn up by conventions, local, state, and national, setting forth the party's views on important questions. These platforms often cause party splits, but generally they help to unite and weld a party into a solid phalanx if there is a good organization.

Sometimes bosses and machines control party organizations, by skillful manipulation of primaries or conventions when the public is not much interested. A boss and machine are often interested in selfish ends, and dictate to the electorate who shall have the offices, what shall be the issues, and even force candidates to do their personal bidding or accept defeat. However, the day of bosses is about over, but there will always be machine politics as long as the public is not thoroughly aroused to what its duties are in elections. Dr. Samuel Johnson once said: "In political regulations good can never be complete,

it can only be predominant." The chief end of a party should be to make good predominant.

Popularizing the Party. — One of the chief purposes of political managers is to popularize both the party's principles as expressed in the platform, and its candidates when nominated. To do this the party machinery must be made democratic and wise leaders will give the people a chance to express their views in platforms and upon candidates for office. The progressive element of all parties to-day is rightly seeking to put men and principles before mere scrambling for office, is liberalizing conventions which are called to choose men and candidates, and trying to free their parties from gang rule.

As has been shown, committees have charge of political activities, from the ward or township to the nation. These committees decide whether candidates shall be nominated locally, or, in state politics, in case the law does not do so, by the convention or the primary method. The primary movement is now very popular, and some states use it even for choosing delegates to the national conventions. Primaries are called by the party organization of a city or a county to choose delegates to a nominating convention, which may then register their votes for candidates for the offices to be filled, and make a platform. The most democratic primary method is that in which the people vote directly for their choice for candidates for the various offices under a well-regulated state primary law. Formerly the states took little interest in methods used by parties to nominate men for office, but to-day practically all states have laws regulating them.

Advantages and Disadvantages of Direct Primaries. — *Primaries* are called by the local committees, except in the

case of state officers, when they are called by the state committee, and only those who are affiliated with the party are allowed to vote. Men must declare what party they belong to, and generally must promise to support their party's ticket before they can vote in a primary. This is sometimes embarrassing, and sometimes prevents independent voters from appearing at the primaries; but at present it seems the best way known to prevent the opposite party from sending voters to the primary and purposely nominating a weak candidate whom they can easily defeat. The direct primary method of nominating candidates has grown much in favor of late. One good feature of this law is that any one can enter the race for office and place himself before all the people. It has a few objections, in that it compels a man to pay his expenses and make two races in case he is nominated; also, apart from the heavy cost, many good men shrink from the struggle to gain a nomination on account of personalities and often abuse in primaries, as well as in elections proper. Frequently, too, when there are many candidates for the same office, a weak man may, with a comparatively small vote, beat strong men. This condition of affairs frequently prevents strong men from becoming candidates.

Any party machinery, to be successful, must arouse interest and get the best element to the polls. If this can be done, the public cannot help but be benefited. In some states men may be nominated for local or state offices by filing a petition with the secretary of state, signed by a certain number of legal voters. This method is frequently used successfully by independent voters in the case of candidates for city and county offices.

National Party Machinery. — Generally, congressional

district conventions select the two delegates and their alternates to the national convention, also a candidate for elector. The state convention appoints four delegates from the state at large, who correspond to the two United States senators. In some states, as in Oregon and Wisconsin, they are all nominated by primaries. The state convention generally chooses also the candidates for electors at large. This constitutes the machinery necessary in a state for a presidential campaign. The national committee of the major parties meets, usually in December or January preceding a national campaign, at the call of the chairman or, should there be no chairman, of other officials. They discuss for a few days party plans, probable issues, and the general outlook, but their most important work is to select a city for the convention. Only a large city can handle such an enormous gathering as generally assembles when a national convention of Republicans or Democrats meets. A city having good railroad facilities, a large hall, and one that will donate the largest sum to the committee for expenses, which are heavy, is generally selected by it for the convention.

All state delegations are selected by June, and the conventions of the two great parties are generally held in June or July. The convention meets, is called to order by the chairman of the national committee, selects its temporary organization officers, and appoints at least four regular committees: on organization, on rules, on platform, and on credentials. The organization completed and the platform agreed upon, balloting for the nomination of President begins. Candidates for President and Vice President being nominated the work of the convention ends, and then and *there begins* the real work of the national committee.

A new committee is chosen for each campaign by the national convention, usually at the suggestion of the state delegations, but experienced politicians are often reëlected on the new committee. One wing of the Republican party, in 1912, strongly insisted that members of the national committee, chosen in some states by state-wide primaries, should replace all old members from these states who had been chosen four years before. This demand was made when a subcommittee of the national committee met prior to the convention to hear contests among state delegations. Had new members been allowed a part in the deliberations before the national convention had completed its work of nominating a ticket, a new precedent would have been established, and it would have especially aided one candidate, so it was not allowed. National headquarters are selected, with the chairman and secretary in charge. In other important cities, other members of the national committee are in charge.

Political Machinery at Work. — Congressmen are elected in the same year as the President; also, in that year one third of the United States senators will be chosen. State legislatures in most states are chosen the same year, as well as county and even township officers. A congressional campaign committee is therefore organized, with a congressman as its chairman, as a rule, which acts in harmony with the national committee. Also, wherever an election of state and county tickets is to be held, the state and local machinery coöperates with both the congressional and national committees. Each party publishes a campaign book having in it what the committee thinks is good material for their party. The weak points of the other party are also emphasized. Press agents are appointed, and the

press is full of the utterances of the candidates and prominent leaders; soon the country has a legion of orators and stump speakers at work trying to arouse popular enthusiasm. Formerly presidential candidates themselves did not travel about the country, but in the last few campaigns they have done this. Literally tons upon tons of speeches, posters, lithographs, and pamphlets are scattered over the country. It costs enormous sums to manage a campaign.

Raising Campaign Funds. — Many speakers must be paid salaries for their time, and even if they donate their time, their traveling and other expenses must be paid. Then, the expense of expressage, postage, telegrams, and hall rent is enormous. Who pays it? It is clear that the candidates themselves could not possibly do it. Prior to 1880, campaign expenses were not so enormous, there was not such a compact organization, and so assessments from officeholders paid the cost. Civil service laws stopped that, and great corporations and business interests were asked to contribute. The fact that these business organizations gave enormous sums for campaigns, and often to both parties, soon convinced the people that they expected favors and special privileges from officials elected. Then arose a great demand that a list of the contributors to campaign funds, with the sums given, should be made public.

In 1907 Congress passed a law forbidding a national bank or other corporation to contribute to a fund at any election when a President or member of Congress is chosen. In 1910 a law was enacted requiring the treasurer of each national committee to make a sworn statement of all contributions given him, and compelling its publication *after the election*. The law was amended by the sixty-

second Congress so as to compel chairmen of the different parties to publish every contribution of $100 or more received by them, and every expenditure of $10 or more before the presidential and congressional elections, and also the names of donors of large subscriptions. Public sentiment was greatly developed by one of the presidential candidates in the campaign of 1908 asking that the people send dollar contributions, and declaring that only small contributions would be accepted, and that these would be published before the election.

The public wants to know to-day before it acts, where funds for electing its servants, the officers, come from, and undoubtedly there will soon be an act to compel the national committee to publish the names of all its contributors and the respective amounts with all its expenditures before the election. This will enable the people to judge whether or not special privileges are sought. Members of Congress must now file a sworn statement of their campaign receipts and expenditures in procuring nominations and in their elections. A candidate for senator may not spend more than $10,000, and any candidate for representative more than $5000 in his campaign for election. Some states compel a sworn statement of expenditures in primaries or conventions, and also elections of their state and local officers. A committee of the United States Senate sitting during the recess of Congress in the fall of 1912, carefully looked into the contributions to the election funds of the campaigns of 1904 and 1908, and made some startling discoveries concerning the contributors to the election funds of the Presidents chosen in those years.

Political Problems of To-day. — The problems which confront a nation are constantly changing; those considered

of minor importance to-day may be momentous in a few years from now; and often those seemingly great, and dividing parties to-day, are of little consequence. Politicians sometimes magnify small issues for campaign use, which are easy of solution. The really great issues before the people, which will require our best intelligence and probably years for their right and proper solution, are the tariff question, which has divided the parties for a long time; the question of regulating great corporations, especially railroads and trusts doing interstate business and those which have stifled competition; the reform of the court system by making justice cheap and speedy, but without destroying the courts as a great bulwark of our liberty, and a protector of our lives and property; the conservation of our natural resources, such as minerals, timber, and water; the real sphere of the federal government, and the rights of the states so that there may be no encroachment of either; the question of protecting labor and capital, so that each may have its rights without constant strife and the suffering of the public as an innocent party; the question of a more rational cultivation of the soil, to increase production and thus cheapen the cost of living; aid in the improvement of waterways and roads to cheapen transportation; the conservation of human health and life in prevention of food and drug adulterations; the arbitration between nations of international disputes; a more democratic method of nominating and choosing our Presidents; and a quicker method of remedying the evils committed by our official classes in the states and the nation than by the slow and almost ineffectual method of impeachment. To this list of problems, others may be added, and *others will* constantly arise. It is not in the province of this

book to discuss these problems, but they can be made topics of useful investigation by teacher and student.

Our Party Government Incomplete. — Political parties will probably continue in the United States to give as good expression as is possible to public sentiment upon vital questions. It is clear to our students of political institutions, that we cannot have party government as contemplated by the framers of the Constitution, nor party government as is understood, for example, in England, where the whole government rises or falls as a party is able to cohere and give expression to its policies. With our government we may have the two houses of Congress of opposite parties; or if of the same party, they may be different from the President, whose veto power can check their actions. Again, the party may have factions in either or both houses, and thus not be able to get the popular will into law. From the end of Jackson's administration to McKinley's administration there was no real unity of action in all departments of our government, except during the Civil War. In England or France, when a party fails to suit the public, it is put out of power. In our country, this cannot be done until the end of the term for which it was elected. It is clear that we cannot locate responsibility easily or get our wishes readily into law. This has given rise to the thought that our Constitution was not framed so much to aid democracy, as to check it. However, to-day as our electorate is constantly becoming better informed, public opinion forces action upon really vital questions.

The Independent Voter. — The strictly party politicians have learned that party label and designation will not stand against men and principles now. The thinking, inde-

pendent voter often aids the party of his preference by voting against its candidates when he thinks them unfit for the position they seek, or not true to the principles he believes in. This breaking of party lines is a breaking away from prejudice, and a response to intelligence. Instead of destroying parties, it makes them more careful. It may make realignments, but that will not hurt the country. A party's creed will probably come into force quicker as this independent vote increases. In recent campaigns in several states, notably Indiana, Minnesota, Ohio, and Tennessee, there was elected a governor of one party while the electoral vote for President the same year went to the opposite party. The drift has been toward great personalities in recent campaigns, because of the public confidence in them regardless of party labels. This places increased responsibility upon both voters and officials, as each of us learns our highest duties to our country.

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Source Material and Supplementary Aids. — Any books of past platforms of American political parties. Richardson's Messages of the Presidents may perhaps be obtained free through your congressman. Get copies of your primary election laws; also copies of statutes on local, state, and federal election laws. Copies of party platforms from newspapers and magazines. Sample ballots. Watch proceedings of conventions nominating your local, state, and national tickets. Campaign textbooks of different parties.

SUGGESTIVE QUESTIONS

1. Why is party government essential in a republic?
2. Name leading political parties in American history prior to 1850, and state leading principles.
3. Name the parties since 1850, including all those of to-day, and give their principles.
4. What makes men stand together in the support of party platforms and nominees?
5. What will split and defeat parties?
6. Designate the steps taken in nominating a ticket for President.
7. How are funds now raised to manage a campaign?
8. What change, if any, has taken place in the modern campaign management?
9. What remedies can you suggest so that a President may be nominated in a more democratic manner than at present?

CHAPTER XXVII

DUTIES OF THE CITIZEN

Inheritance. — It is not the purpose to go into a scientific discussion of heredity and the differences of opinion in regard to it. Science has clearly shown that health tendencies are inherited, as well as sick tendencies and disease; and that those of health, if cultivated, soon get the mastery; also, it has clearly shown that environment means much more to life than hereditary tendencies. An anæmic body, placed amid proper surroundings with nutritious food and plenty of pure air, may soon work out its transformation, while the most robust body may soon succumb to disease in an unhealthful locality, and for want of proper care. The greatest inheritance that can come to any human being is to be born with a sound, healthy body and mind, of clean, vigorous parents; the second essential is to have a mother who recognizes the importance of keeping the child well and giving it good rearing. A good home exists primarily for the welfare of the child, and the promotion of a better general welfare in the community for the present and future generations. This means that it is a good citizen's bounden duty to educate his children, in which efforts the state stands ready, with the open door of the free public school, to second his desires and ambitions. Every child thus educated, as a citizen of a community, state, and nation, owes to parents for good rearing, and *to the state* for opportunities afforded, a debt of gratitude

which can never be repaid except in the service of good citizenship for better future conservation of health and greater efficiency.

Support the Government. — Every community to-day is demanding that the coming citizen shall know more of political affairs — know how to promote the good, and thwart and check the evil. To do this, the purpose and mechanism of our government, local, state, and national, must be better understood. The public school, college, university, platform, and daily press give ample opportunity for study of the science of government, its weakness and strength. Good citizenship calls upon every individual to support the government patriotically in time of peace by listing property fairly for taxation and paying taxes; by doing jury duty when called upon; by filling an office, when elected, with the greatest ability and honesty; by payment of debts, so that honor and honesty may prevail; by serving the nation faithfully and to the best of his ability in time of war; by seeing that law is enforced and that wrongs are righted. If laws are wrong and injustice is done, there are legal ways to amend laws and secure justice, and any community may be depended upon to do its duty in this respect if the wrongs are properly presented.

Voting. — In our government every citizen is a partner, and the business is well conducted only when every partner is intelligent, wide-awake, and active. Each partner is responsible, if results are bad and the community or state is misgoverned, to the degree that he supports bad principles, and helps choose a bad set of directors as officials or agents to carry into effect the law and the public will. Casting a ballot is a sacred privilege, and with it goes a sanction, if concurred in by a majority, that cer-

tain principles and certain officials shall prevail. A good citizen should so prize the ballot that he will attend caucuses and primaries whenever held, and see to it that good men only are nominated. If the good citizens do not take part in the primaries, they should not complain of the ticket nominated by bosses and the questionable element in the community. The good citizen must keep up with the trend of the times, must be radical enough to be progressive, but not so radical as to be irrational. By keeping in touch with the world of thought, he sees what is needed to make a better community for him and his neighbors, and it ill becomes one to let things drift and do nothing. One of the greatest sources of evil in our country lies in the fact that so many of our otherwise good citizens care so little about their own and their neighbors' welfare that they do not vote. How can a partnership be well managed and successful if many of the best partners pay no attention to the business and allow it to be conducted by inferior hands?

Ideals of Success. — No man ever succeeded who depended upon blind chance. Ideals and dreams of to-day, if they are rational, and have thought behind them, become realities to-morrow. These ideals are useful if they image and interpret what the public really needs in its onward, progressive march. To have proper ideals, and cleanliness, physical and mental, is an absolute necessity for efficiency in service and the highest good. Ideals, to be worth anything, must contemplate labor, sacrifice, and duty, with a sense of realization that all labor that really contributes to the social dividend and assets of usefulness, is honorable. High ideals, coupled with earnest labor, will make any *individual or* community prosperous and successful.

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ARTICLES OF CONFEDERATION

ARTICLES OF CONFEDERATION AND PERPETUAL UNION BETWEEN THE STATES OF NEW HAMPSHIRE, MASSACHUSETTS BAY, RHODE ISLAND AND PROVIDENCE PLANTATIONS, CONNECTICUT, NEW YORK, NEW JERSEY, PENNSYLVANIA, DELAWARE, MARYLAND, VIRGINIA, NORTH CAROLINA, SOUTH CAROLINA, AND GEORGIA

ARTICLE I.—The style of this confederacy shall be, "The United States of America."

ART. II.—Each State retains its sovereignty, freedom, and independence, and every power, jurisdiction, and right which is not by this confederation expressly delegated to the United States in Congress assembled.

ART. III.—The said States hereby severally enter into a firm league of friendship with each other, for their common defense, the security of their liberties, and their mutual and general welfare, binding themselves to assist each other against all force offered to, or attacks made upon them, or any of them, on account of religion, sovereignty, trade, or any other pretense whatever.

ART. IV.—The better to secure and perpetuate mutual friendship and intercourse among the people of the different States in this Union, the free inhabitants of each of these States, paupers, vagabonds, and fugitives from justice excepted, shall be entitled to all privileges and immunities of free citizens in the several States; and the people of each State shall have free ingress and regress to and from any other State, and shall enjoy therein all the privileges of trade and commerce, subject to the same duties, impositions, and restrictions, as the inhabitants thereof respectively; provided that such restrictions shall not extend so far as to prevent the removal of property imported into any State, to any other State of which the owner is an inhabitant; provided, also, that no imposition, duties, or restriction, shall be laid by any State on the property of the United States or either of them.

If any person guilty of, or charged with, treason, felony, or other high misdemeanor in any State, shall flee from justice, and be found in any of the United States, he shall, upon demand of the governor or executive power of the State from which he fled, be delivered up, and removed to the State having jurisdiction of his offense.

Full faith and credit shall be given, in each of these States, to the records, acts, and judicial proceedings of the courts and magistrates of every other State.

ART. V.—For the more convenient management of the general interests of the United States, delegates shall be annually appointed in such

manner as the legislature of each State shall direct, to meet in Congress on the first Monday in November, in every year, with a power reserved to each State to recall its delegates, or any of them, at any time within the year, and to send others in their stead for the remainder of the year.

No State shall be represented in Congress by less than two, nor by more than seven members; and no person shall be capable of being a delegate for more than three years, in any term of six years; nor shall any person, being a delegate, be capable of holding any office under the United States, for which he, or another for his benefit, receives any salary, fees, or emolument of any kind.

Each State shall maintain its own delegates in any meeting of the States and while they act as members of the committee of the States.

In determining questions in the United States in Congress assembled, each State shall have one vote.

Freedom of speech and debate in Congress shall not be impeached or questioned in any court or place out of Congress; and the members of Congress shall be protected in their persons from arrests and imprisonments during the time of their going to and from, and attendance on Congress, except for treason, felony, or breach of the peace.

ART. VI.—No State, without the consent of the United States, in Congress assembled, shall send any embassy to, or receive any embassy from, or enter into any conference, agreement, alliance, or treaty, with any king, prince, or state; nor shall any person holding any office of profit or trust under the United States, or any of them, accept of any present, emolument, office, or title of any kind whatever, from any king, prince, or foreign state; nor shall the United States, in Congress assembled, or any of them, grant any title of nobility.

No two or more States shall enter into any treaty, confederation, or alliance whatever between them, without the consent of the United States, in Congress assembled, specifying accurately the purposes for which the same is to be entered into, and how long it shall continue.

No States shall lay any imposts or duties which may interfere with any stipulations in treaties entered into by the United States, in Congress assembled, with any king, prince, or state, in pursuance of any treaties already proposed by Congress to the courts of France and Spain.

No vessels of war shall be kept up in time of peace, by any State, except such number only as shall be deemed necessary, by the United States in Congress assembled, for the defense of such State or its trade; nor shall any body of forces be kept up, by any State, in time of peace, except such number only as, in the judgment of the United States, in Congress assembled, shall be deemed requisite to garrison the forts necessary for the defense of such State; but every State shall always keep up a well regulated and disciplined militia, sufficiently armed and accoutred, and shall provide and constantly have ready for use, in public stores, a due number of field-pieces and tents, and a proper quantity of arms, ammunition, and camp equipage.

No State shall engage in any war without the consent of the United States, in Congress assembled, unless such State be actually invaded by enemies, or shall have received certain advice of a resolution being formed by some nation of Indians to invade such State, and the danger is so imminent as not to admit of a delay till the United States, in Congress assembled, can be consulted; nor shall any State grant commissions to

any ships or vessels of war, nor letters of marque or reprisal, except it be after a declaration of war by the United States, in Congress assembled, and then only against the kingdom or state, and the subjects thereof against which war has been so declared, and under such regulations as shall be established by the United States, in Congress assembled, unless such State be infested by pirates, in which case vessels of war may be fitted out for that occasion, and kept so long as the danger shall continue, or until the United States, in Congress assembled, shall determine otherwise.

ART. VII.—When land forces are raised by any State for the common defense, all officers of or under the rank of colonel, shall be appointed by the legislature of each State respectively by whom such forces shall be raised, or in such manner as such State shall direct, and all vacancies shall be filled up by the State which first made the appointment.

ART. VIII.—All charges of war, and all other expenses that shall be incurred for the common defense or general welfare, and allowed by the United States in Congress assembled, shall be defrayed out of a common treasury, which shall be supplied by the several States, in proportion to the value of all land within each State, granted to, or surveyed for, any person, as such land and the buildings and improvements thereon shall be estimated according to such mode as the United States, in Congress assembled, shall, from time to time, direct and appoint. The taxes for paying that proportion shall be laid and levied by the authority and direction of the legislatures of the several States, within the time agreed upon by the United States, in Congress assembled.

ART. IX.—The United States, in Congress assembled, shall have the sole and exclusive right and power of determining on peace and war, except in the cases mentioned in the sixth Article; of sending and receiving ambassadors; entering into treaties and alliances, provided that no treaty of commerce shall be made whereby the legislative power of the respective States shall be restrained from imposing such imposts and duties on foreigners, as their own people are subjected to, or from prohibiting the exportation or importation of any species of goods or commodities whatsoever; of establishing rules for deciding, in all cases, what captures on land or water shall be legal, and in what manner prizes taken by land or naval forces in the service of the United States, shall be divided or appropriated; of granting letters of marque and reprisal in times of peace; appointing courts for the trial of piracies and felonies committed on the high seas; and establishing courts for receiving and determining finally appeals in all cases of captures; provided that no member of Congress shall be appointed a judge of any of the said courts.

The United States, in Congress assembled, shall also be the last resort on appeal, in all disputes and differences now subsisting, or that hereafter may arise between two or more States concerning boundary, jurisdiction, or any other cause whatever; which authority shall always be exercised in the manner following: Whenever the legislative or executive authority, or lawful agent of any State in controversy with another, shall present a petition to Congress, stating the matter in question, and praying for a hearing, notice thereof shall be given by order of Congress, to the legislative or executive authority of the other State in controversy, and a day assigned for the appearance of the parties by their lawful agents, who shall then be directed to appoint, by joint consent, commissioners or judges to constitute a court for hearing and determining the matter in

question; but if they can not agree, Congress shall name three persons out of each of the United States, and from the list of such persons each party shall alternately strike out one, the petitioners beginning, until the number shall be reduced to thirteen; and from that number not less than seven nor more than nine names, as Congress shall direct, shall, in the presence of Congress, be drawn out by lot; and the persons whose names shall be so drawn, or any five of them, shall be commissioners or judges, to hear and finally determine the controversy, so always as a major part of the judges, who shall hear the cause, shall agree in the determination; and if either party shall neglect to attend at the day appointed, without showing reasons which Congress shall judge sufficient, or being present, shall refuse to strike, the Congress shall proceed to nominate three persons out of each State, and the secretary of Congress shall strike in behalf of such party absent or refusing; and the judgment and sentence of the court, to be appointed in the manner before prescribed, shall be final and conclusive; and if any of the parties shall refuse to submit to the authority of such court, or to appear or defend their claim or cause, the court shall nevertheless proceed to pronounce sentence or judgment, which shall in like manner be final and decisive; the judgment or sentence and other proceedings being in either case transmitted to Congress, and lodged among the acts of Congress for the security of the parties concerned; provided, that every commissioner, before he sits in judgment, shall take an oath, to be administered by one of the judges of the supreme or superior court of the State where the cause shall be tried, "well and truly to hear and determine the matter in question, according to the best of his judgment, without favor, affection, or hope of reward." Provided, also, that no State shall be deprived of territory for the benefit of the United States.

All controversies concerning the private right of soil claimed under different grants of two or more States, whose jurisdictions, as they may respect such lands, and the States which passed such grants are adjusted, the said grants or either of them being at the same time claimed to have originated antecedent to such settlement of jurisdiction, shall, on the petition of either party to the Congress of the United States, be finally determined, as near as may be, in the same manner as is before prescribed for deciding disputes respecting territorial jurisdiction between different States.

The United States, in Congress assembled, shall also have the sole and exclusive right and power of regulating the alloy and value of coin struck by their own authority, or by that of the respective States; fixing the standard of weights and measures throughout the United States; regulating the trade and managing all affairs with the Indians not members of any of the States; provided that the legislative right of any State, within its own limits, be not infringed or violated; establishing and regulating post offices from one State to another throughout all the United States, and exacting such postage on the papers passing through the same, as may be requisite to defray the expenses of the said office; appointing all officers of the land forces in the service of the United States, excepting regimental officers; appointing all the officers of the naval forces, and commissioning all officers whatever in the service of the United States; making rules for the government and regulation of the said land and naval forces, and directing their operations.

The United States, in Congress assembled, shall have authority to appoint a committee, to sit in the recess of Congress, to be denominated "A Committee of the States," and to consist of one delegate from each State; and to appoint such other committees and civil officers as may be necessary for managing the general affairs of the United States under their direction; to appoint one of their number to preside, provided that no person be allowed to serve in the office of president more than one year in any term of three years; to ascertain the necessary sums of money to be raised for the service of the United States, and to appropriate and apply the same for defraying the public expenses; to borrow money or emit bills on the credit of the United States, transmitting every half year to the respective States an account of the sums of money so borrowed or emitted; to build and equip a navy; to agree upon the number of land forces, and to make requisitions from each State for its quota, in proportion to the number of white inhabitants in such State, which requisition shall be binding; and thereupon the Legislature of each State shall appoint the regimental officers, raise the men, and clothe, arm, and equip them in a soldier-like manner at the expense of the United States; and the officers and men so clothed, armed, and equipped shall march to the place appointed, and within the time agreed on by the United States, in Congress assembled; but if the United States, in Congress assembled, shall, on consideration of circumstances, judge proper that any State should not raise men, or should raise a smaller number than its quota, and that any other State should raise a greater number of men than the quota thereof, such extra number shall be raised, officered, clothed, armed, and equipped in the same manner as the quota of such State, unless the Legislature of such State shall judge that such extra number can not be safely spared out of the same, in which case they shall raise, officer, clothe, arm, and equip as many of such extra number as they judge can be safely spared, and the officers and men so clothed, armed, and equipped shall march to the place appointed, and within the time agreed on by the United States, in Congress assembled.

The United States, in Congress assembled, shall never engage in a war, nor grant letters of marque and reprisal in time of peace, nor enter into any treatise or alliances, nor coin money, nor regulate the value thereof, nor ascertain the sums and expenses necessary for the defense and welfare of the United States, or any of them, nor emit bills, nor borrow money on the credit of the United States, nor appropriate money, nor agree upon the number of vessels of war to be built or purchased, or the number of land or sea forces to be raised, nor appoint a commander-in-chief of the army or navy, unless nine States assent to the same, nor shall a question on any other point, except for adjourning from day to day, be determined, unless by the votes of a majority of the United States, in Congress assembled.

The Congress of the United States shall have power to adjourn to any time within the year, and to any place within the United States, so that no period of adjournment be for a longer duration than the space of six months, and shall publish the journal of their proceedings monthly, except such parts thereof relating to treaties, alliances, or military operations as in their judgment require secrecy; and the yeas and nays of the delegates of each State, on any question, shall be entered on the journal when it is desired by any delegate; and the delegates of a State, or any of

them, at his or their request, shall be furnished with a transcript of the said journal, except such parts as are above excepted, to lay before the legislatures of the several States.

ART. X.—The committee of the States, or any nine of them, shall be authorized to execute, in the recess of Congress, such of the powers of Congress as the United States, in Congress assembled, by the consent of nine States, shall, from time to time, think expedient to vest them with; provided that no power be delegated to the said committee, for the exercise of which, by the articles of confederation, the voice of nine States, in the Congress of the United States assembled, is requisite.

ART. XI.—Canada acceding to this confederation, and joining in the measures of the United States, shall be admitted into, and entitled to all the advantages of this Union; but no other colony shall be admitted into the same unless such admission be agreed to by nine States.

ART. XII.—All bills of credit emitted, moneys borrowed, and debts contracted by or under the authority of Congress, before the assembling of the United States, in pursuance of the present confederation, shall be deemed and considered as a charge against the United States, for payment and satisfaction whereof the said United States and the public faith are hereby solemnly pledged.

ART. XIII.—Every State shall abide by the determinations of the United States, in Congress assembled, on all questions which by this Confederation are submitted to them. And the Articles of this Confederation shall be inviolably observed by every State, and the Union shall be perpetual; nor shall any alteration at any time hereafter be made in any of them, unless such alteration be agreed to in a Congress of the United States, and be afterward confirmed by the legislatures of every State.

And whereas it hath pleased the great Governor of the world to incline the hearts of the legislatures we respectively represent in Congress, to approve of, and to authorize us to ratify the said Articles of Confederation and perpetual Union, Know ye, that we, the undersigned delegates, by virtue of the power and authority to us given for that purpose, do, by these presents, in the name and in behalf of our respective constituents, fully and entirely ratify and confirm each and every of the said Articles of Confederation and perpetual Union, and all and singular the matters and things therein contained. And we do further solemnly plight and engage the faith of our respective constituents, that they shall abide by the determinations of the United States, in Congress assembled, on all questions which by the said Confederation are submitted to them; and that the Articles thereof shall be inviolably observed by the States we respectively represent, and that the Union shall be perpetual. In witness whereof, we have hereunto set our hands in Congress. Done at Philadelphia, in the State of Pennsylvania, the ninth day of July, in the year of our Lord 1778,* and in the third year of the Independence of America.

* Only ten States took action upon the Articles at this time. New Jersey, Delaware, and Maryland did not ratify them until later.

CONSTITUTION OF THE UNITED STATES—1787[1]

WE the people of the United States, in order to form a more perfect union, establish justice, insure domestic tranquillity, provide for the common defense, promote the general welfare, and secure the blessings of liberty to ourselves and our posterity, do ordain and establish this Constitution for the United States of America.

ARTICLE I

SECTION 1. All legislative powers herein granted shall be vested in a Congress of the United States, which shall consist of a Senate and House of Representatives.

SECTION 2. 1 The House of Representatives shall be composed of members chosen every second year by the people of the several States, and the electors in each State shall have the qualifications requisite for electors of the most numerous branch of the State legislature.

2 No person shall be a representative who shall not have attained to the age of twenty-five years, and been seven years a citizen of the United States, and who shall not, when elected, be an inhabitant of that State in which he shall be chosen.

3 Representatives and direct taxes shall be apportioned among the several States which may be included within this Union, according to their respective numbers, which shall be determined by adding to the whole number of free persons, including those bound to service for a term of years, and excluding Indians not taxed, three fifths of all other persons.[2] The actual enumeration shall be made within three years after the first meeting of the Congress of the United States, and within every subsequent term of ten years, in such manner as they shall by law direct. The number of representatives shall not exceed one for every thirty thousand, but each State shall have at least one representative; and until such enumeration shall be made, the State of New Hampshire shall be entitled to choose three, Massachusetts eight, Rhode Island and Providence Plantations one, Connecticut five, New York six, New Jersey four, Pennsylvania eight, Delaware one, Maryland six, Virginia ten, North Carolina five, South Carolina five, and Georgia three.

4 When vacancies happen in the representation from any State, the executive authority thereof shall issue writs of election to fill such vacancies.

5 The House of Representatives shall choose their speaker and other officers, and shall have the sole power of impeachment.

SECTION 3. 1 The Senate of the United States shall be composed of two senators from each State, chosen by the legislature thereof for six years; and each senator shall have one vote.[3]

[1] This reprint of the Constitution exactly follows the text of that in the Department of State at Washington, save in the spelling of a few words.

[2] The last half of this sentence was superseded by the 13th and 14th Amendments.

[3] This paragraph was superseded by the 17th Amendment.

2 Immediately after they shall be assembled in consequence of the first election, they shall be divided as equally as may be into three classes. The seats of the senators of the first class shall be vacated at the expiration of the second year, of the second class at the expiration of the fourth year, and of the third class at the expiration of the sixth year, so that one third may be chosen every second year; and if vacancies happen by resignation, or otherwise, during the recess of the legislature of any State, the executive thereof may make temporary appointments until the next meeting of the legislature, which shall then fill such vacancies.[1]

3 No person shall be a senator who shall not have attained to the age of thirty years, and been nine years a citizen of the United States, and who shall not, when elected, be an inhabitant of that State for which he shall be chosen.

4 The Vice President of the United States shall be President of the Senate, but shall have no vote, unless they be equally divided.

5 The Senate shall choose their other officers, and also a president *pro tempore*, in the absence of the Vice President, or when he shall exercise the office of President of the United States.

6 The Senate shall have the sole power to try all impeachments. When sitting for that purpose, they shall be on oath or affirmation. When the President of the United States is tried, the chief justice shall preside: and no person shall be convicted without the concurrence of two thirds of the members present.

7 Judgment in cases of impeachment shall not extend further than to removal from office, and disqualification to hold and enjoy any office of honor, trust or profit under the United States: but the party convicted shall nevertheless be liable and subject to indictment, trial, judgment and punishment, according to law.

SECTION 4. 1 The times, places, and manner of holding elections for senators and representatives, shall be prescribed in each State by the legislature thereof; but the Congress may at any time by law make or alter such regulations, except as to the places of choosing senators.

2 The Congress shall assemble at least once in every year, and such meeting shall be on the first Monday in December, unless they shall by law appoint a different day.

SECTION 5. 1 Each House shall be the judge of the elections, returns and qualifications of its own members, and a majority of each shall constitute a quorum to do business; but a smaller number may adjourn from day to day, and may be authorized to compel the attendance of absent members, in such manner, and under such penalties as each House may provide.

2 Each House may determine the rules of its proceedings, punish its members for disorderly behavior, and, with the concurrence of two thirds, expel a member.

3 Each House shall keep a journal of its proceedings, and from time to time publish the same, excepting such parts as may in their judgment require secrecy; and the yeas and nays of the members of either House on any question shall, at the desire of one fifth of those present, be entered on the journal.

4 Neither House, during the session of Congress, shall, without the consent of the other, adjourn for more than three days, nor to any other place than that in which the two Houses shall be sitting.

[1] *The last half of this* sentence was superseded by the XXth Amendment.

SECTION 6. 1 The senators and representatives shall receive a compensation for their services, to be ascertained by law, and paid out of the Treasury of the United States. They shall in all cases, except treason, felony and breach of the peace, be privileged from arrest during their attendance at the session of their respective Houses, and in going to and returning from the same; and for any speech or debate in either House, they shall not be questioned in any other place.

2 No senator or representative shall, during the time for which he was elected, be appointed to any civil office under the authority of the United States, which shall have been created, or the emoluments whereof shall have been increased during such time; and no person holding any office under the United States shall be a member of either House during his continuance in office.

SECTION 7. 1 All bills for raising revenue shall originate in the House of Representatives; but the Senate may propose or concur with amendments as on other bills.

2 Every bill which shall have passed the House of Representatives and the Senate, shall, before it become a law, be presented to the President of the United States; if he approve he shall sign it, but if not he shall return it, with his objections to that House in which it shall have originated, who shall enter the objections at large on their journal, and proceed to reconsider it. If after such reconsideration two thirds of that House shall agree to pass the bill, it shall be sent, together with the objections, to the other House, by which it shall likewise be reconsidered, and if approved by two thirds of that House, it shall become a law. But in all such cases the votes of both Houses shall be determined by yeas and nays, and the names of the persons voting for and against the bill shall be entered on the journal of each House respectively. If any bill shall not be returned by the President within ten days (Sundays excepted) after it shall have been presented to him, the same shall be a law, in like manner as if he had signed it, unless the Congress by their adjournment prevent its return, in which case it shall not be a law.

3 Every order, resolution, or vote to which the concurrence of the Senate and House of Representatives may be necessary (except on a question of adjournment) shall be presented to the President of the United States; and before the same shall take effect, shall be approved by him, or being disapproved by him, shall be repassed by two thirds of the Senate and House of Representatives, according to the rules and limitations prescribed in the case of a bill.

SECTION 8. 1 The Congress shall have power to lay and collect taxes, duties, imposts and excises, to pay the debts and provide for the common defense and general welfare of the United States; but all duties, imposts and excises shall be uniform throughout the United States;

2 To borrow money on the credit of the United States;

3 To regulate commerce with foreign nations, and among the several States, and with the Indian tribes;

4 To establish an uniform rule of naturalization, and uniform laws on the subject of bankruptcies throughout the United States;

5 To coin money, regulate the value thereof, and of foreign coin, and fix the standard of weights and measures;

6 To provide for the punishment of counterfeiting the securities and current coin of the United States;

7 To establish post offices and post roads;

8 To promote the progress of science and useful arts by securing for limited times to authors and inventors the exclusive right to their respective writings and discoveries;

9 To constitute tribunals inferior to the Supreme Court;

10 To define and punish piracies and felonies committed on the high seas, and offenses against the law of nations;

11 To declare war, grant letters of marque and reprisal, and make rules concerning captures on land and water;

12 To raise and support armies, but no appropriation of money to that use shall be for a longer term than two years;

13 To provide and maintain a navy;

14 To make rules for the government and regulation of the land and naval forces;

15 To provide for calling forth the militia to execute the laws of the Union, suppress insurrections and repel invasions;

16 To provide for organizing, arming, and disciplining the militia, and for governing such part of them as may be employed in the service of the United States, reserving to the States respectively the appointment of the officers, and the authority of training the militia according to the discipline prescribed by Congress;

17 To exercise exclusive legislation in all cases whatsoever, over such district (not exceeding ten miles square) as may, by cession of particular States and the acceptance of Congress, become the seat of the government of the United States,[1] and to exercise like authority over all places purchased by the consent of the legislature of the State in which the same shall be, for the erection of forts, magazines, arsenals, dockyards, and other needful buildings; and

18 To make all laws which shall be necessary and proper for carrying into execution the foregoing powers, and all other powers vested by this Constitution in the government of the United States, or in any department or officer thereof.

SECTION 9. 1 The migration or importation of such persons as any of the States now existing shall think proper to admit, shall not be prohibited by the Congress prior to the year one thousand eight hundred and eight, but a tax or duty may be imposed on such importation, not exceeding ten dollars for each person.[2]

2 The privilege of the writ of *habeas corpus* shall not be suspended, unless when in cases of rebellion or invasion the public safety may require it.

3 No bill of attainder or *ex post facto* law shall be passed.

4 No capitation, or other direct, tax shall be laid, unless in proportion to the census or enumeration hereinbefore directed to be taken.

5 No tax or duty shall be laid on articles exported from any State.

6 No preference shall be given by any regulation of commerce or revenue to the ports of one State over those of another: nor shall vessels bound to, or from, one State be obliged to enter, clear, or pay duties in another.

7 No money shall be drawn from the treasury, but in consequence of appropriations made by law; and a regular statement and account of the

[1] The District of Columbia, which comes under these regulations, had not *then been erected.*

[2] *A temporary* clause, no longer in force. See also Article V.

receipts and expenditures of all public money shall be published from time to time.

8 No title of nobility shall be granted by the United States: and no person holding any office of profit or trust under them, shall, without the consent of the Congress, accept of any present, emolument, office, or title, of any kind whatever, from any king, prince, or foreign State.

SECTION 10.[1] 1 No State shall enter into any treaty, alliance, or confederation; grant letters of marque and reprisal; coin money; emit bills of credit; make anything but gold and silver coin a tender in payment of debts; pass any bill of attainder, *ex post facto* law, or law impairing the obligation of contracts, or grant any title of nobility.

2 No State shall, without the consent of the Congress, lay any imposts or duties on imports or exports, except what may be absolutely necessary for executing its inspection laws: and the net produce of all duties and imposts laid by any State on imports or exports, shall be for the use of the treasury of the United States; and all such laws shall be subject to the revision and control of the Congress.

3 No State shall, without the consent of Congress, lay any duty of tonnage, keep troops, or ships of war in time of peace, enter into any agreement or compact with another State, or with a foreign power, or engage in war, unless actually invaded, or in such imminent danger as will not admit of delay.

ARTICLE II

SECTION 1. 1 The executive power shall be vested in a President of the United States of America. He shall hold his office during the term of four years, and, together with the Vice President, chosen for the same term, be elected, as follows

2 Each State shall appoint, in such manner as the legislature thereof may direct, a number of electors, equal to the whole number of senators and representatives to which the State may be entitled in the Congress: but no senator or representative, or person holding an office of trust or profit under the United States, shall be appointed an elector.

The electors shall meet in their respective States, and vote by ballot for two persons, of whom one at least shall not be an inhabitant of the same State with themselves. And they shall make a list of all the persons voted for, and of the number of votes for each; which list they shall sign and certify, and transmit sealed to the seat of the government of the United States, directed to the president of the Senate. The president of the Senate, shall, in the presence of the Senate and House of Representatives, open all the certificates, and the votes shall then be counted. The person having the greatest number of votes shall be the President, if such number be a majority of the whole number of electors appointed; and if there be more than one who have such majority, and have an equal number of votes, then the House of Representatives shall immediately choose by ballot one of them for President; and if no person have a majority, then from the five highest on the list the said house shall in like manner choose the President. But in choosing the President, the votes shall be taken by States, the representation from each State having one vote; a quorum for this purpose shall consist of a member or members from two thirds of the States, and a majority of all the States shall be necessary to a choice.

[1] See also the 10th, 13th, 14th, and 15th Amendments.

In every case, after the choice of the President, the person having the greatest number of votes of the electors shall be the Vice President. But if there should remain two or more who have equal votes, the Senate shall choose from them by ballot the Vice President.[1]

3 The Congress may determine the time of choosing the electors, and the day on which they shall give their votes; which day shall be the same throughout the United States.

4 No person except a natural born citizen, or a citizen of the United States, at the time of the adoption of this Constitution, shall be eligible to the office of President; neither shall any person be eligible to that office who shall not have attained to the age of thirty-five years, and been fourteen years a resident within the United States.

5 In case of the removal of the President from office, or of his death, resignation, or inability to discharge the powers and duties of the said office, the same shall devolve on the Vice President, and the Congress may by law provide for the case of removal, death, resignation, or inability, both of the President and Vice President, declaring what officer shall then act as President, and such officer shall act accordingly, until the disability be removed, or a President shall be elected.

6 The President shall, at stated times, receive for his services a compensation, which shall neither be increased nor diminished during the period for which he shall have been elected, and he shall not receive within that period any other emolument from the United States, or any of them.

7 Before he enter on the execution of his office, he shall take the following oath or affirmation: — "I do solemnly swear (or affirm) that I will faithfully execute the office of President of the United States, and will to the best of my ability, preserve, protect and defend the Constitution of the United States."

SECTION 2. 1 The President shall be commander in chief of the army and navy of the United States, and of the militia of the several States, when called into the actual service of the United States; he may require the opinion, in writing, of the principal officer in each of the executive departments, upon any subject relating to the duties of their respective offices, and he shall have power to grant reprieves and pardons for offenses against the United States, except in cases of impeachment.

2 He shall have power, by and with the advice and consent of the Senate, to make treaties, provided two thirds of the senators present concur; and he shall nominate, and by and with the advice and consent of the Senate, shall appoint ambassadors, other public ministers and consuls, judges of the Supreme Court, and all other officers of the United States, whose appointments are not herein otherwise provided for, and which shall be established by law: but the Congress may by law vest the appointment of such inferior officers, as they think proper, in the President alone, in the courts of law, or in the heads of departments.

3 The President shall have power to fill up all vacancies that may happen during the recess of the Senate, by granting commissions which shall expire at the end of their next session.

SECTION 3. He shall from time to time give to the Congress information of the state of the Union, and recommend to their consideration such measures as he shall judge necessary and expedient; he may, on

[1] *This paragraph* superseded by the 12th Amendment.

extraordinary occasions, convene both Houses, or either of them, and in case of disagreement between them with respect to the time of adjournment, he may adjourn them to such time as he shall think proper; he shall receive ambassadors and other public ministers; he shall take care that the laws be faithfully executed, and shall commission all the officers of the United States.

SECTION 4. The President, Vice President, and all civil officers of the United States, shall be removed from office on impeachment for, and conviction of, treason, bribery, or other high crimes and misdemeanors.

ARTICLE III

SECTION 1. The judicial power of the United States shall be vested in one Supreme Court, and in such inferior courts as the Congress may from time to time ordain and establish. The judges, both of the Supreme and inferior courts, shall hold their offices during good behavior, and shall, at stated times, receive for their services, a compensation which shall not be diminished during their continuance in office.

SECTION 2. 1 The judicial power shall extend to all cases, in law and equity, arising under this Constitution, the laws of the United States, and treaties made, or which shall be made, under their authority; — to all cases affecting ambassadors, other public ministers and consuls; — to all cases of admiralty and maritime jurisdiction; — to controversies to which the United States shall be a party; — to controversies between two or more States; — between a State and citizens of another State;[1] — between citizens of different States, — between citizens of the same State claiming lands under grants of different States, and between a State, or the citizens thereof, and foreign States, citizens or subjects.

2 In all cases affecting ambassadors, other public ministers and consuls, and those in which a State shall be party, the Supreme Court shall have original jurisdiction. In all the other cases before mentioned, the Supreme Court shall have appellate jurisdiction, both as to law and fact, with such exceptions, and under such regulations as the Congress shall make.

3 The trial of all crimes, except in cases of impeachment, shall be by jury; and such trial shall be held in the State where the said crimes shall have been committed; but when not committed within any State, the trial shall be at such place or places as the Congress may by law have directed.

SECTION 3. 1 Treason against the United States, shall consist only in levying war against them, or in adhering to their enemies, giving them aid and comfort. No person shall be convicted of treason unless on the testimony of two witnesses to the same overt act, or on confession in open court.

2 The Congress shall have power to declare the punishment of treason, but no attainder of treason shall work corruption of blood, or forfeiture except during the life of the person attainted.

ARTICLE IV

SECTION 1. Full faith and credit shall be given in each State to the public acts, records, and judicial proceedings of every other State. And

[1] See the 11th Amendment.

the Congress may by general laws prescribe the manner in which such acts, records and proceedings shall be proved, and the effect thereof.

SECTION 2. 1 The citizens of each State shall be entitled to all privileges and immunities of citizens in the several States.

2 A person charged in any State with treason, felony, or other crime, who shall flee from justice, and be found in another State, shall on demand of the executive authority of the State from which he fled, be delivered up to be removed to the State having jurisdiction of the crime.

3 No person held to service or labor in one State, under the laws thereof, escaping into another, shall, in consequence of any law or regulation therein, be discharged from such service or labor, but shall be delivered up on claim of the party to whom such service or labor may be due.[1]

SECTION 3. 1 New States may be admitted by the Congress into this Union; but no new State shall be formed or erected within the jurisdiction of any other State; nor any State be formed by the junction of two or more States, or parts of States, without the consent of the legislatures of the States concerned as well as of the Congress.

2 The Congress shall have power to dispose of and make all needful rules and regulations respecting the territory or other property belonging to the United States; and nothing in this Constitution shall be so construed as to prejudice any claims of the United States, or of any particular State.

SECTION 4. The United States shall guarantee to every State in this Union a republican form of government, and shall protect each of them against invasion; and on application of the legislature, or of the executive (when the legislature cannot be convened) against domestic violence.

ARTICLE V

The Congress, whenever two thirds of both Houses shall deem it necessary, shall propose amendments to this Constitution, or, on the application of the legislatures of two thirds of the several States, shall call a convention for proposing amendments, which, in either case, shall be valid to all intents and purposes, as part of this Constitution, when ratified by the legislatures of three fourths of the several States, or by conventions in three fourths thereof, as the one or the other mode of ratification may be proposed by the Congress; Provided that no amendment which may be made prior to the year one thousand eight hundred and eight shall in any manner affect the first and fourth clauses in the ninth section of the first article; and that no State, without its consent, shall be deprived of its equal suffrage in the Senate.

ARTICLE VI

1 All debts contracted and engagements entered into, before the adoption of this Constitution, shall be as valid against the United States under this Constitution, as under the Confederation.

2 This Constitution, and the laws of the United States which shall be made in pursuance thereof; and all treaties made, or which shall be made, under the authority of the United States, shall be the supreme law of the land; and the judges in every State shall be bound thereby, anything in the Constitution or laws of any State to the contrary notwithstanding.

[1] See the 13th Amendment.

3 The senators and representatives before mentioned, and the members of the several State legislatures, and all executive and judicial officers, both of the United States, and of the several States, shall be bound by oath or affirmation to support this Constitution; but no religious test shall ever be required as a qualification to any office or public trust under the United States.

ARTICLE VII

The ratification of the conventions of nine States shall be sufficient for the establishment of this Constitution between the States so ratifying the same.

Done in Convention by the unanimous consent of the States present the seventeenth day of September in the year of our Lord one thousand seven hundred and eighty-seven, and of the independence of the United States of America the twelfth. In witness whereof we have hereunto subscribed our names,

Go: Washington —
Presidt. and Deputy from Virginia

New Hampshire
John Langdon
Nicholas Gilman

Massachusetts
Nathaniel Gorham
Rufus King

Connecticut
Wm. Saml. Johnson
Roger Sherman

New York
Alexander Hamilton

New Jersey
Wil: Livingston
David Brearley
Wm. Paterson
Jona: Dayton

Pennsylvania
B. Franklin
Thomas Mifflin
Robt. Morris
Geo. Clymer
Thos. Fitzsimons
Jared Ingersoll
James Wilson
Gouv Morris

Delaware
Geo: Read
Gunning Bedford Jun
John Dickinson
Richard Bassett
Jaco: Broom

Maryland
James McHenry
Dan of St. Thos Jenifer
Danl. Carroll

Virginia
John Blair —
James Madison Jr.

North Carolina
Wm. Blount
Richd. Dobbs Spaight
Hu Williamson

South Carolina
J. Rutledge
Charles Cotesworth Pinckney
Charles Pinckney
Pierce Butler

Georgia
William Few
Abr Baldwin

Attest William Jackson Secretary.

Articles in addition to, and amendment of, the Constitution of the United States of America, proposed by Congress, and ratified by the legislatures of the several States pursuant to the fifth article of the original Constitution.

ARTICLES I–X[1]

Article I. Congress shall make no law respecting an establishment of religion, or prohibiting the free exercise thereof; or abridging the freedom of speech, or of the press; or the right of the people peaceably to assemble, and to petition the government for a redress of grievances.

[1] The first ten Amendments were adopted in 1791.

ARTICLE II. A well regulated militia, being necessary to the security of a free State, the right of the people to keep and bear arms, shall not be infringed.

ARTICLE III. No soldier shall, in time of peace be quartered in any house, without the consent of the owner, nor in time of war, but in a manner to be prescribed by law.

ARTICLE IV. The right of the people to be secure in their persons, houses, papers, and effects, against unreasonable searches and seizures, shall not be violated, and no warrants shall issue, but upon probable cause, supported by oath or affirmation, and particularly describing the place to be searched, and the persons or things to be seized.

ARTICLE V. No person shall be held to answer for a capital, or otherwise infamous crime, unless on a presentment or indictment of a grand jury, except in cases arising in the land or naval forces, or in the militia, when in actual service in time of war or public danger; nor shall any person be subject for the same offense to be twice put in jeopardy of life or limb; nor shall be compelled in any criminal case to be a witness against himself, nor be deprived of life, liberty, or property, without due process of law; nor shall private property be taken for public use without just compensation.

ARTICLE VI. In all criminal prosecutions, the accused shall enjoy the right to a speedy and public trial, by an impartial jury of the State and district wherein the crime shall have been committed, which district shall have been previously ascertained by law, and to be informed of the nature and cause of the accusation; to be confronted with the witnesses against him; to have compulsory process for obtaining witnesses in his favor, and to have the assistance of counsel for his defense.

ARTICLE VII. In suits at common law, where the value in controversy shall exceed twenty dollars, the right of trial by jury shall be preserved, and no fact tried by a jury shall be otherwise reëxamined in any court of the United States, than according to the rules of the common law.

ARTICLE VIII. Excessive bail shall not be required, nor excessive fines imposed, nor cruel and unusual punishments inflicted.

ARTICLE IX. The enumeration in the Constitution of certain rights shall not be construed to deny or disparage others retained by the people.

ARTICLE X. The powers not delegated to the United States by the Constitution, nor prohibited by it to the States, are reserved to the States respectively, or to the people.

ARTICLE XI [1]

The judicial power of the United States shall not be construed to extend to any suit in law or equity, commenced or prosecuted against one of the United States, by citizens of another State, or by citizens or subjects of any foreign State.

ARTICLE XII [2]

The electors shall meet in their respective States, and vote by ballot for President and Vice President, one of whom, at least, shall not be an inhabitant of the same State with themselves; they shall name in their ballots the person voted for as President, and in distinct ballots the person

[1] Adopted in 1798. [2] Adopted in 1804.

voted for as Vice President, and they shall make distinct lists of all persons voted for as President and of all persons voted for as Vice President, and of the number of votes for each, which lists they shall sign and certify, and transmit sealed to the seat of the government of the United States, directed to the president of the Senate;—The president of the Senate shall, in the presence of the Senate and House of Representatives, open all the certificates and the votes shall then be counted;—The person having the greatest number of votes for President shall be the President, if such number be a majority of the whole number of electors appointed; and if no person have such majority, then from the persons having the highest numbers not exceeding three on the list of those voted for as President, the House of Representatives shall choose immediately, by ballot, the President. But in choosing the President, the votes shall be taken by States, the representation from each State having one vote; a quorum for this purpose shall consist of a member or members from two thirds of the States, and a majority of all the States shall be necessary to a choice. And if the House of Representatives shall not choose a President whenever the right of choice shall devolve upon them, before the fourth day of March next following, then the Vice President shall act as President, as in the case of the death or other constitutional disability of the President. The person having the greatest number of votes as Vice President shall be the Vice President, if such number be a majority of the whole number of electors appointed, and if no person have a majority, then from the two highest numbers on the list, the Senate shall choose the Vice President; a quorum for the purpose shall consist of two thirds of the whole number of senators, and a majority of the whole number shall be necessary to a choice. But no person constitutionally ineligible to the office of President shall be eligible to that of Vice President of the United States.

ARTICLE XIII[1]

SECTION 1. Neither slavery nor involuntary servitude, except as a punishment for crime whereof the party shall have been duly convicted, shall exist within the United States, or any place subject to their jurisdiction.

SECTION 2. Congress shall have power to enforce this article by appropriate legislation.

ARTICLE XIV[2]

SECTION 1. All persons born or naturalized in the United States, and subject to the jurisdiction thereof, are citizens of the United States and of the State wherein they reside. No State shall make or enforce any law which shall abridge the privileges or immunities of citizens of the United States; nor shall any State deprive any person of life, liberty, or property, without due process of law; nor deny to any person within its jurisdiction the equal protection of the laws.

SECTION 2. Representatives shall be apportioned among the several States according to their respective numbers, counting the whole number of persons in each State, excluding Indians not taxed. But when the right to vote at any election for the choice of electors for President and Vice

[1] Adopted in 1865. [2] Adopted in 1868.

President of the United States, representatives in Congress, the executive and judicial officers of a State, or the members of the legislature thereof, is denied to any of the male inhabitants of such State, being twenty-one years of age, and citizens of the United States, or in any way abridged, except for participation in rebellion, or other crime, the basis of representation therein shall be reduced in the proportion which the number of such male citizens shall bear to the whole number of male citizens twenty-one years of age in such State.

SECTION 3. No person shall be a senator or representative in Congress, or elector of President and Vice President, or hold any office, civil or military, under the United States, or under any State, who, having previously taken an oath, as a member of Congress, or as an officer of the United States, or as a member of any State legislature, or as an executive or judicial officer of any State, to support the Constitution of the United States, shall have engaged in insurrection or rebellion against the same, or given aid or comfort to the enemies thereof. But Congress may by a vote of two thirds of each House, remove such disability.

SECTION 4. The validity of the public debt of the United States, authorized by law, including debts incurred for payment of pensions and bounties for services in suppressing insurrection or rebellion, shall not be questioned. But neither the United States nor any State shall assume or pay any debt or obligation incurred in aid of insurrection or rebellion against the United States, or any claim for the loss or emancipation of any slave; but all such debts, obligations and claims shall be held illegal and void.

SECTION 5. The Congress shall have power to enforce, by appropriate legislation, the provisions of this article.

ARTICLE XV [1]

SECTION 1. The right of citizens of the United States to vote shall not be denied or abridged by the United States or by any State on account of race, color, or previous condition of servitude.

SECTION 2. The Congress shall have power to enforce this article by appropriate legislation.

ARTICLE XVI [2]

The Congress shall have power to lay and collect taxes on incomes, from whatever source derived, without apportionment among the several States, and without regard to any census or enumeration.

ARTICLE XVII [3]

The Senate of the United States shall be composed of two senators from each State, elected by the people thereof, for six years; and each senator shall have one vote. The electors in each State shall have the qualifications requisite for electors of the most numerous branch of the State legislatures.

When vacancies happen in the representation of any State in the Senate, the executive authority of such State shall issue writs of election to fill such vacancies: *Provided*, That the legislature of any State may empower the executive thereof to make temporary appointments until the people fill the vacancies by election as the legislature may direct.

This amendment shall not be so construed as to affect the election or term of any senator chosen before it becomes valid as part of the Constitution.

[1] Adopted in 1870. [2] Adopted in 1913. [3] Adopted in 1913.

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SECTION 3. No person shall be a senator or representative in Congress, or elector of President and Vice President, or hold any office, civil or military, under the United States, or under any State, who, having previously taken an oath, as a member of Congress, or as an officer of the United States, or as a member of any State legislature, or as an executive or judicial officer of any State, to support the Constitution of the United States, shall have engaged in insurrection or rebellion against the same, or given aid or comfort to the enemies thereof. But Congress may by a vote of two thirds of each House, remove such disability.

SECTION 4. The validity of the public debt of the United States, authorized by law, including debts incurred for payment of pensions and bounties for services in suppressing insurrection or rebellion, shall not be questioned. But neither the United States nor any State shall assume or pay any debt or obligation incurred in aid of insurrection or rebellion against the United States, or any claim for the loss or emancipation of any slave; but all such debts, obligations and claims shall be held illegal and void.

SECTION 5. The Congress shall have power to enforce, by appropriate legislation, the provisions of this article.

ARTICLE XV [1]

SECTION 1. The right of citizens of the United States to vote shall not be denied or abridged by the United States or by any State on account of race, color, or previous condition of servitude.

SECTION 2. The Congress shall have power to enforce this article by appropriate legislation.

ARTICLE XVI [2]

The Congress shall have power to lay and collect taxes on incomes, from whatever source derived, without apportionment among the several States, and without regard to any census or enumeration.

ARTICLE XVII [3]

The Senate of the United States shall be composed of two senators from each State, elected by the people thereof, for six years; and each senator shall have one vote. The electors in each State shall have the qualifications requisite for electors of the most numerous branch of the State legislatures.

When vacancies happen in the representation of any State in the Senate, the executive authority of such State shall issue writs of election to fill such vacancies: *Provided*, That the legislature of any State may empower the executive thereof to make temporary appointments until the people fill the vacancies by election as the legislature may direct.

This amendment shall not be so construed as to affect the election or term of any senator chosen before it becomes valid as part of the Constitution.

[1] *Adopted* in 1870. [2] Adopted in 1913. [3] Adopted in 1913.

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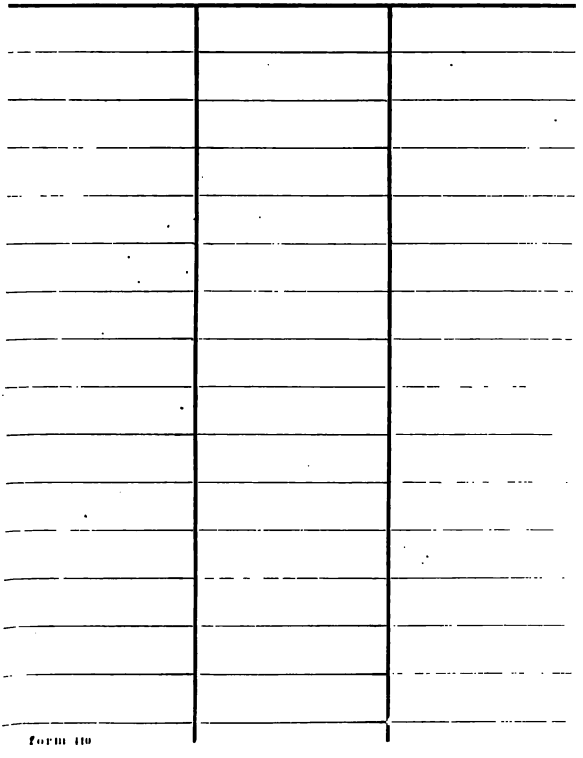

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